

By: Representative Warren

To: Medicaid

HOUSE BILL NO. 558

1 AN ACT TO AMEND SECTION 43-13-107, MISSISSIPPI CODE OF 1972,  
2 WHICH CREATES THE DIVISION OF MEDICAID; AND FOR RELATED PURPOSES.

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

4 **SECTION 1.** Section 43-13-107, Mississippi Code of 1972, is  
5 amended as follows:

6 43-13-107. (1) The Division of Medicaid is created in the  
7 Office of the Governor and established to administer this article  
8 and perform such other duties as are prescribed by law.

9 (2) (a) The Governor shall appoint a full-time executive  
10 director, with the advice and consent of the Senate, who shall be  
11 either (i) a physician with administrative experience in a medical  
12 care or health program, or (ii) a person holding a graduate degree  
13 in medical care administration, public health, hospital  
14 administration, or the equivalent, or (iii) a person holding a  
15 bachelor's degree in business administration or hospital  
16 administration, with at least ten (10) years' experience in  
17 management-level administration of Medicaid programs. The  
18 executive director shall be the official secretary and legal  
19 custodian of the records of the division; shall be the agent of  
20 the division for the purpose of receiving all service of process,  
21 summons and notices directed to the division; and shall perform  
22 such other duties as the Governor may prescribe from time to time.

23 (b) The Governor shall appoint a full-time Deputy  
24 Director of Administration, with the advice and consent of the  
25 Senate, who shall have at least a bachelor's degree from an  
26 accredited college or university, and/or shall possess a special  
27 knowledge of Medicaid as pertaining to the State of Mississippi.

28 The Deputy Director of Administration may perform those duties of  
29 the executive director that the executive director has not  
30 expressly retained for himself.

31 (c) The executive director and the Deputy Director of  
32 Administration of the Division of Medicaid shall perform all other  
33 duties that are now or may be imposed upon them by law.

34 (d) The terms of office of the executive director and  
35 the Deputy Director of Administration shall be concurrent with the  
36 terms of the Governor appointing them. In the event of a vacancy,  
37 the same shall be filled by the Governor for the unexpired portion  
38 of the term in which the vacancy occurs. However, the incumbent  
39 executive director and Deputy Director of Administration shall  
40 serve until the appointment and qualification of their successors.

41 (e) The executive director and the Deputy Director of  
42 Administration shall, before entering upon the discharge of the  
43 duties of their offices, take and subscribe to the oath of office  
44 prescribed by the Mississippi Constitution and shall file the same  
45 in the Office of the Secretary of State, and each shall execute a  
46 bond in some surety company authorized to do business in the state  
47 in the penal sum of One Hundred Thousand Dollars (\$100,000.00),  
48 conditioned for the faithful and impartial discharge of the duties  
49 of their offices. The premium on those bonds shall be paid as  
50 provided by law out of funds appropriated to the Division of  
51 Medicaid for contractual services.

52 (f) The executive director, with the approval of the  
53 Governor and subject to the rules and regulations of the State  
54 Personnel Board, shall employ such professional, administrative,  
55 stenographic, secretarial, clerical and technical assistance as  
56 may be necessary to perform the duties required in administering  
57 this article and fix the compensation for those persons, all in  
58 accordance with a state merit system meeting federal requirements.  
59 When the salary of the executive director is not set by law, that  
60 salary shall be set by the State Personnel Board. No employees of

61 the Division of Medicaid shall be considered to be staff members  
62 of the immediate Office of the Governor; however, the provisions  
63 of Section 25-9-107(c)(xv) shall apply to the executive director  
64 and other administrative heads of the division.

65 (3) (a) There is established a Medical Care Advisory  
66 Committee, which shall be the committee that is required by  
67 federal regulation to advise the Division of Medicaid about health  
68 and medical care services.

69 (b) The advisory committee shall consist of not less  
70 than eleven (11) members, as follows:

71 (i) The Governor shall appoint five (5) members,  
72 one (1) from each congressional district and one (1) from the  
73 state at large;

74 (ii) The Lieutenant Governor shall appoint three  
75 (3) members, one (1) from each Supreme Court district;

76 (iii) The Speaker of the House of Representatives  
77 shall appoint three (3) members, one (1) from each Supreme Court  
78 district.

79 All members appointed under this paragraph shall either be  
80 health care providers or consumers of health care services. One  
81 (1) member appointed by each of the appointing authorities shall  
82 be a board certified physician.

83 (c) The respective Chairmen of the House Medicaid  
84 Committee, the House Public Health and Human Services Committee,  
85 the House Appropriations Committee, the Senate Public Health and  
86 Welfare Committee and the Senate Appropriations Committee, or  
87 their designees, two (2) members of the State Senate appointed by  
88 the Lieutenant Governor and one (1) member of the House of  
89 Representatives appointed by the Speaker of the House, shall serve  
90 as ex officio nonvoting members of the advisory committee.

91 (d) In addition to the committee members required by  
92 paragraph (b), the advisory committee shall consist of such other  
93 members as are necessary to meet the requirements of the federal

94 regulation applicable to the advisory committee, who shall be  
95 appointed as provided in the federal regulation.

96 (e) The chairmanship of the advisory committee shall  
97 alternate for twelve-month periods between the Chairmen of the  
98 House Medicaid Committee and the Senate Public Health and Welfare  
99 Committee.

100 (f) The members of the advisory committee specified in  
101 paragraph (b) shall serve for terms that are concurrent with the  
102 terms of members of the Legislature, and any member appointed  
103 under paragraph (b) may be reappointed to the advisory committee.  
104 The members of the advisory committee specified in paragraph (b)  
105 shall serve without compensation, but shall receive reimbursement  
106 to defray actual expenses incurred in the performance of committee  
107 business as authorized by law. Legislators shall receive per diem  
108 and expenses, which may be paid from the contingent expense funds  
109 of their respective houses in the same amounts as provided for  
110 committee meetings when the Legislature is not in session.

111 (g) The advisory committee shall meet not less than  
112 quarterly, and advisory committee members shall be furnished  
113 written notice of the meetings at least ten (10) days before the  
114 date of the meeting.

115 (h) The executive director shall submit to the advisory  
116 committee all amendments, modifications and changes to the state  
117 plan for the operation of the Medicaid program, for review by the  
118 advisory committee before the amendments, modifications or changes  
119 may be implemented by the division.

120 (i) The advisory committee, among its duties and  
121 responsibilities, shall:

122 (i) Advise the division with respect to  
123 amendments, modifications and changes to the state plan for the  
124 operation of the Medicaid program;

125                   (ii) Advise the division with respect to issues  
126 concerning receipt and disbursement of funds and eligibility for  
127 Medicaid;

128                   (iii) Advise the division with respect to  
129 determining the quantity, quality and extent of medical care  
130 provided under this article;

131                   (iv) Communicate the views of the medical care  
132 professions to the division and communicate the views of the  
133 division to the medical care professions;

134                   (v) Gather information on reasons that medical  
135 care providers do not participate in the Medicaid program and  
136 changes that could be made in the program to encourage more  
137 providers to participate in the Medicaid program, and advise the  
138 division with respect to encouraging physicians and other medical  
139 care providers to participate in the Medicaid program;

140                   (vi) Provide a written report on or before  
141 November 30 of each year to the Governor, Lieutenant Governor and  
142 Speaker of the House of Representatives.

143           (4) (a) There is established a Drug Use Review Board, which  
144 shall be the board that is required by federal law to:

145                   (i) Review and initiate retrospective drug use,  
146 review including ongoing periodic examination of claims data and  
147 other records in order to identify patterns of fraud, abuse, gross  
148 overuse, or inappropriate or medically unnecessary care, among  
149 physicians, pharmacists and individuals receiving Medicaid  
150 benefits or associated with specific drugs or groups of drugs.

151                   (ii) Review and initiate ongoing interventions for  
152 physicians and pharmacists, targeted toward therapy problems or  
153 individuals identified in the course of retrospective drug use  
154 reviews.

155                   (iii) On an ongoing basis, assess data on drug use  
156 against explicit predetermined standards using the compendia and  
157 literature set forth in federal law and regulations.

158           (b) The board shall consist of not less than twelve  
159 (12) members appointed by the Governor, or his designee.

160           (c) The board shall meet at least quarterly, and board  
161 members shall be furnished written notice of the meetings at least  
162 ten (10) days before the date of the meeting.

163           (d) The board meetings shall be open to the public,  
164 members of the press, legislators and consumers. Additionally,  
165 all documents provided to board members shall be available to  
166 members of the Legislature in the same manner, and shall be made  
167 available to others for a reasonable fee for copying. However,  
168 patient confidentiality and provider confidentiality shall be  
169 protected by blinding patient names and provider names with  
170 numerical or other anonymous identifiers. The board meetings  
171 shall be subject to the Open Meetings Act (Section 25-41-1 et  
172 seq.). Board meetings conducted in violation of this section  
173 shall be deemed unlawful.

174           (5) (a) There is established a Pharmacy and Therapeutics  
175 Committee, which shall be appointed by the Governor, or his  
176 designee.

177           (b) The committee shall meet at least quarterly, and  
178 committee members shall be furnished written notice of the  
179 meetings at least ten (10) days before the date of the meeting.

180           (c) The committee meetings shall be open to the public,  
181 members of the press, legislators and consumers. Additionally,  
182 all documents provided to committee members shall be available to  
183 members of the Legislature in the same manner, and shall be made  
184 available to others for a reasonable fee for copying. However,  
185 patient confidentiality and provider confidentiality shall be  
186 protected by blinding patient names and provider names with  
187 numerical or other anonymous identifiers. The committee meetings  
188 shall be subject to the Open Meetings Act (Section 25-41-1 et  
189 seq.). Committee meetings conducted in violation of this section  
190 shall be deemed unlawful.

191           (d) After a thirty-day public notice, the executive  
192 director, or his or her designee, shall present the division's  
193 recommendation regarding prior approval for a therapeutic class of  
194 drugs to the committee. However, in circumstances where the  
195 division deems it necessary for the health and safety of Medicaid  
196 beneficiaries, the division may present to the committee its  
197 recommendations regarding a particular drug without a thirty-day  
198 public notice. In making that presentation, the division shall  
199 state to the committee the circumstances that precipitate the need  
200 for the committee to review the status of a particular drug  
201 without a thirty-day public notice. The committee may determine  
202 whether or not to review the particular drug under the  
203 circumstances stated by the division without a thirty-day public  
204 notice. If the committee determines to review the status of the  
205 particular drug, it shall make its recommendations to the  
206 division, after which the division shall file those  
207 recommendations for a thirty-day public comment under the  
208 provisions of Section 25-43-7(1).

209           (e) Upon reviewing the information and recommendations,  
210 the committee shall forward a written recommendation approved by a  
211 majority of the committee to the executive director or his or her  
212 designee. The decisions of the committee regarding any  
213 limitations to be imposed on any drug or its use for a specified  
214 indication shall be based on sound clinical evidence found in  
215 labeling, drug compendia, and peer reviewed clinical literature  
216 pertaining to use of the drug in the relevant population.

217           (f) Upon reviewing and considering all recommendations  
218 including recommendation of the committee, comments, and data, the  
219 executive director shall make a final determination whether to  
220 require prior approval of a therapeutic class of drugs, or modify  
221 existing prior approval requirements for a therapeutic class of  
222 drugs.

223           (g) At least thirty (30) days before the executive  
224 director implements new or amended prior authorization decisions,  
225 written notice of the executive director's decision shall be  
226 provided to all prescribing Medicaid providers, all Medicaid  
227 enrolled pharmacies, and any other party who has requested the  
228 notification. However, notice given under Section 25-43-7(1) will  
229 substitute for and meet the requirement for notice under this  
230 subsection.

231           (h) Members of the committee shall dispose of matters  
232 before the committee in an unbiased and professional manner. If a  
233 matter being considered by the committee presents a real or  
234 apparent conflict of interest for any member of the committee,  
235 that member shall disclose the conflict in writing to the  
236 committee chair and recuse himself or herself from any discussions  
237 and/or actions on the matter.

238           (6) This section shall stand repealed on July 1, 2009.

239           **SECTION 2.** This act shall take effect and be in force from  
240 and after July 1, 2007.