

By: Representative Franks

To: Medicaid; Appropriations

HOUSE BILL NO. 1110

1 AN ACT TO CODIFY NEW SECTION 43-13-121.1, MISSISSIPPI CODE OF  
2 1972, TO PROVIDE THAT THE DIVISION OF MEDICAID SHALL IMPLEMENT A  
3 "MONEY FOLLOWS THE PERSON" PROCESS BY WHICH FUNDING FOR NURSING  
4 FACILITY SERVICES FOR MEDICAID-ELIGIBLE BENEFICIARIES MAY BE USED  
5 TO PAY FOR HOME- AND COMMUNITY-BASED WAIVER SERVICES FOR THOSE  
6 NURSING FACILITY RESIDENTS WHO CHOOSE THOSE SERVICES; AND FOR  
7 RELATED PURPOSES.

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

9 SECTION 1. The following shall be codified as Section  
10 43-13-121.1, Mississippi Code of 1972:

11 43-13-121.1. (1) It is the intent of the Legislature to  
12 implement a "money follows the person" process by which a portion  
13 of the money used to cover the cost of nursing facility services  
14 for Medicaid-eligible beneficiaries may be transferred to fund  
15 home- and community-based waiver services through the Elderly and  
16 Disabled Waiver, administered by the Division of Medicaid, and the  
17 Independent Living Waiver and the Traumatic Brain Injury/Spinal  
18 Cord Injury Waiver, administered by the Department of  
19 Rehabilitation Services.

20 (2) Notwithstanding any other state law, the Executive  
21 Director of the Division of Medicaid is authorized to transfer  
22 funds allocated for nursing facility services for  
23 Medicaid-eligible nursing facility residents to cover the cost of  
24 home- and community-based waiver services if the nursing facility  
25 resident meets the eligibility criteria for either the Elderly and  
26 Disabled Waiver, the Independent Living Waiver, or the Traumatic  
27 Brain Injury/Spinal Cord Injury Waiver program and the resident  
28 chooses to receive those services.

29           (3) The authority of the executive director of the division  
30 to transfer funds from nursing facility services shall apply to  
31 home- and community-based waiver programs administered by the  
32 division, the Department of Rehabilitation Services and the  
33 Department of Mental Health.

34           (4) Under the "money follows the person" process, the  
35 executive director of the division shall transfer funds to the  
36 appropriate home- and community-based waiver program administering  
37 agency to cover the cost of services provided through the Elderly  
38 and Disabled Waiver, the Independent Living Waiver, and the  
39 Traumatic Brain Injury/Spinal Cord Injury Waiver programs for  
40 Medicaid-eligible nursing facility residents who choose to leave  
41 the nursing facility and receive home- and community-based waiver  
42 services. The executive director of the division shall ensure  
43 that the amount transferred under this section is redirected to  
44 the appropriate home- and community-based waiver program in an  
45 amount sufficient to provide waiver services to each nursing  
46 facility resident upon his or her discharge from the nursing  
47 facility.

48           (5) The number of nursing facility residents who receive  
49 home- and community-based waiver services through the "money  
50 follows the person" process will not count against the total  
51 number of individuals previously approved by the Centers for  
52 Medicare and Medicaid Services (CMS) to receive home- and  
53 community-based services through the Elderly and Disabled Waiver,  
54 the Independent Living Waiver, or the Traumatic Brain  
55 Injury/Spinal Cord Injury Waiver programs. In addition, the  
56 number of nursing facility residents who receive services as a  
57 result of the "money follows the person" process shall not count  
58 against any additional slots approved by CMS and authorized by the  
59 state as a result of prior litigation settlements reached by the  
60 state. Instead, the division shall request CMS to amend the  
61 Elderly and Disabled Waiver, the Independent Living Waiver, and

62 the Traumatic Brain Injury/Spinal Cord Injury Waiver, as  
63 necessary, to obtain authorization from CMS to specifically serve  
64 this group of former nursing facility residents through the "money  
65 follows the person" process.

66 (6) Rules and regulations pertaining to the implementation  
67 of the process shall be written and promulgated by the division no  
68 later than September 1, 2007. Two months before implementation of  
69 the "money follows the person" process, the executive director of  
70 the division shall send a letter to all Medicaid-eligible nursing  
71 facility residents informing them of the option to obtain home-  
72 and community-based waiver services through this process and  
73 providing them with contact information for applying for home- and  
74 community-based waiver services.

75 (7) Consistent with federal requirements, the division shall  
76 assure that necessary safeguards are taken to protect the health  
77 and safety of nursing facility residents who choose to receive  
78 home- and community-based waiver services through the "money  
79 follows the person" process. This assurance must include a formal  
80 system by which:

81 (a) The division or its designee monitors that all  
82 provider standards and health and welfare protections are  
83 continuously met; and

84 (b) Plans of care for waiver participants are  
85 periodically reviewed to ensure that the services furnished are  
86 consistent with the identified needs of waiver participants; and

87 (c) All deficiencies identified through this quality  
88 monitoring system are addressed in an appropriate and timely  
89 manner, consistent with the severity and nature of the  
90 deficiencies.

91 (8) There shall be a Money Follows the Person (MFP) Advisory  
92 Committee to make recommendations and advise the division with  
93 regard to the process mandated in this act, by which funding for  
94 nursing facility services for Medicaid-eligible beneficiaries may

95 be used to pay for home- and community-based waiver services for  
96 those nursing facility residents who choose to receive those  
97 services. The committee shall be composed of the following  
98 individuals:

99 (a) The respective chairmen of the House Public Health  
100 and Human Services Committee and the Senate Public Health and  
101 Welfare Committee;

102 (b) One (1) member of the House of Representatives  
103 appointed by the Speaker of the House, and one (1) member of the  
104 Senate appointed by the Lieutenant Governor;

105 (c) The executive directors of the State Department of  
106 Mental Health and of the State Department of Rehabilitation  
107 Services;

108 (d) One (1) member each appointed by the Speaker of the  
109 House and the Lieutenant Governor, from among the membership of  
110 any recognized statewide association representing the concerns of  
111 the nursing facility owners and managers; and

112 (e) One (1) member each appointed by the Chairman of  
113 the House Public Health and Human Services Committee and the  
114 Chairman of the Senate Public Health and Welfare Committee, from  
115 among members of the community representing the concerns of  
116 individuals with disabilities.

117 (9) The executive director of the division shall report to  
118 the Attorney General the name and location of individuals who have  
119 transitioned from nursing facilities to the Elderly and Disabled  
120 Waiver, the Independent Living Waiver, and the Traumatic Brain  
121 Injury/Spinal Cord Injury Waiver programs. The director shall  
122 furnish, to each individual making such a transition and to the  
123 person who will be responsible for providing home- and  
124 community-based waiver services to the individual, the telephone  
125 number of the Attorney General's Office and a copy of the  
126 Mississippi Vulnerable Adults Act contained in Sections 43-47-1  
127 through 43-47-37, with particular emphasis on the penalties

128 imposed under that act. The Attorney General is authorized to  
129 designate members of his office to initiate follow-up visits with  
130 those individuals who have made such a transition.

131 (10) The executive director of the division shall submit an  
132 annual report by January 1 of each year to the Legislature and to  
133 the MFP Advisory Committee concerning:

134 (a) The number of individuals who have transitioned  
135 from nursing facilities to the Elderly and Disabled Waiver, the  
136 Independent Living Waiver, and the Traumatic Brain Injury/Spinal  
137 Cord Injury Waiver programs;

138 (b) The number of individuals in nursing facilities who  
139 have indicated that they want to return to the community; and

140 (c) The number of individuals on referral lists for the  
141 Elderly and Disabled Waiver, the Independent Living Waiver, and  
142 the Traumatic Brain Injury/Spinal Cord Injury Waiver programs.

143 **SECTION 2.** This act shall take effect and be in force from  
144 and after its passage.