

By: Representatives Eaton, Hamilton (6th),  
Howell, Read

To: Public Health and Human  
Services

HOUSE BILL NO. 1128

1 AN ACT TO AMEND SECTION 73-21-155, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT FOR THE PURPOSES OF CALCULATING REIMBURSEMENT  
3 UNDER A CONTRACT TO A PHARMACY FOR PRESCRIPTION DRUGS, PHARMACY  
4 BENEFIT MANAGERS ALSO SHALL BE REQUIRED TO INCLUDE REASONABLE  
5 COSTS INCURRED BY PHARMACIES IN DISPENSING AND LABELING DRUGS; AND  
6 FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 73-21-155, Mississippi Code of 1972, is  
9 amended as follows:

10 73-21-155. (1) For the purposes of calculating  
11 reimbursement under a contract to a pharmacist or pharmacy for  
12 prescription drugs and other products and supplies, pharmacy  
13 benefit managers, their agents and any other parties responsible  
14 for such reimbursement also shall be required to include  
15 reasonable costs incurred by pharmacists and pharmacies in  
16 dispensing and labeling drugs. Such reasonable costs include, but  
17 are not limited to labels, vials, transmission fees, and insurance  
18 and computer software required by pharmacy benefit managers, their  
19 agents and other parties responsible for reimbursement. The State  
20 Board of Pharmacy may adopt rules and regulations necessary to  
21 ensure compliance with this subsection.

22 (2) Reimbursement under a contract to a pharmacist or  
23 pharmacy for prescription drugs and other products and supplies  
24 that is calculated according to a formula that uses a nationally  
25 recognized reference in the pricing calculation shall use the most  
26 current nationally recognized reference price or amount in the  
27 actual or constructive possession of the pharmacy benefit manager,  
28 its agent, or any other party responsible for reimbursement for  
29 prescription drugs and other products and supplies on the date of

30 electronic adjudication or on the date of service shown on the  
31 nonelectronic claim.

32 (3) Pharmacy benefit managers, their agents and other  
33 parties responsible for reimbursement for prescription drugs and  
34 other products and supplies shall be required to update the  
35 nationally recognized reference prices or amounts used for  
36 calculation of reimbursement for prescription drugs and other  
37 products and supplies no less than every three (3) business days.

38 (4) (a) All benefits payable under a pharmacy benefit  
39 management plan shall be paid within fifteen (15) days after  
40 receipt of due written proof of a clean claim where claims are  
41 submitted electronically, and shall be paid within thirty-five  
42 (35) days after receipt of due written proof of a clean claim  
43 where claims are submitted in paper format. Benefits due under  
44 the plan and claims are overdue if not paid within fifteen (15)  
45 days or thirty-five (35) days, whichever is applicable, after the  
46 pharmacy benefit manager receives a clean claim containing  
47 necessary information essential for the pharmacy benefit manager  
48 to administer preexisting condition, coordination of benefits and  
49 subrogation provisions under the plan sponsor's health insurance  
50 plan. A "clean claim" means a claim received by any pharmacy  
51 benefit manager for adjudication and which requires no further  
52 information, adjustment or alteration by the pharmacist or  
53 pharmacies or the insured in order to be processed and paid by the  
54 pharmacy benefit manager. A claim is clean if it has no defect or  
55 impropriety, including any lack of substantiating documentation,  
56 or particular circumstance requiring special treatment that  
57 prevents timely payment from being made on the claim under this  
58 subsection. A clean claim includes resubmitted claims with  
59 previously identified deficiencies corrected.

60 (b) A clean claim does not include any of the  
61 following:

62 (i) A duplicate claim, which means an original  
63 claim and its duplicate when the duplicate is filed within thirty  
64 (30) days of the original claim;

65 (ii) Claims which are submitted fraudulently or  
66 that are based upon material misrepresentations;

67 (iii) Claims that require information essential  
68 for the pharmacy benefit manager to administer preexisting  
69 condition, coordination of benefits or subrogation provisions  
70 under the plan sponsor's health insurance plan; or

71 (iv) Claims submitted by a pharmacist or pharmacy  
72 more than thirty (30) days after the date of service; if the  
73 pharmacist or pharmacy does not submit the claim on behalf of the  
74 insured, then a claim is not clean when submitted more than thirty  
75 (30) days after the date of billing by the pharmacist or pharmacy  
76 to the insured.

77 (c) Not later than fifteen (15) days after the date the  
78 pharmacy benefit manager actually receives an electronic claim,  
79 the pharmacy benefit manager shall pay the appropriate benefit in  
80 full, or any portion of the claim that is clean, and notify the  
81 pharmacist or pharmacy (where the claim is owed to the pharmacist  
82 or pharmacy) of the reasons why the claim or portion thereof is  
83 not clean and will not be paid and what substantiating  
84 documentation and information is required to adjudicate the claim  
85 as clean. Not later than thirty-five (35) days after the date the  
86 pharmacy benefit manager actually receives a paper claim, the  
87 pharmacy benefit manager shall pay the appropriate benefit in  
88 full, or any portion of the claim that is clean, and notify the  
89 pharmacist or pharmacy (where the claim is owed to the pharmacist  
90 or pharmacy) of the reasons why the claim or portion thereof is  
91 not clean and will not be paid and what substantiating  
92 documentation and information is required to adjudicate the claim  
93 as clean. Any claim or portion thereof resubmitted with the  
94 supporting documentation and information requested by the pharmacy

95 benefit manager shall be paid within twenty (20) days after  
96 receipt.

97       (5) If the board finds that any pharmacy benefit manager,  
98 agent or other party responsible for reimbursement for  
99 prescription drugs and other products and supplies has not paid  
100 ninety-five percent (95%) of clean claims as defined in subsection  
101 (4) of this section received from all pharmacies in a calendar  
102 quarter, he shall be subject to administrative penalty of not more  
103 than Twenty-five Thousand Dollars (\$25,000.00) to be assessed by  
104 the State Board of Pharmacy.

105           (a) Examinations to determine compliance with this  
106 subsection may be conducted by the board. The board may contract  
107 with qualified impartial outside sources to assist in examinations  
108 to determine compliance. The expenses of any such examinations  
109 shall be paid by the pharmacy benefit manager examined.

110           (b) Nothing in the provisions of this section shall  
111 require a pharmacy benefit manager to pay claims that are not  
112 covered under the terms of a contract or policy of accident and  
113 sickness insurance or prepaid coverage.

114           (c) If the claim is not denied for valid and proper  
115 reasons by the end of the applicable time period prescribed in  
116 this provision, the pharmacy benefit manager must pay the pharmacy  
117 (where the claim is owed to the pharmacy) or the patient (where  
118 the claim is owed to a patient) interest on accrued benefits at  
119 the rate of one and one-half percent (1-1/2%) per month accruing  
120 from the day after payment was due on the amount of the benefits  
121 that remain unpaid until the claim is finally settled or  
122 adjudicated. Whenever interest due pursuant to this provision is  
123 less than One Dollar (\$1.00), such amount shall be credited to the  
124 account of the person or entity to whom such amount is owed.

125           (d) Any pharmacy benefit manager and a pharmacy may  
126 enter into an express written agreement containing timely claim  
127 payment provisions which differ from, but are at least as

128 stringent as, the provisions set forth under subsection (4) of  
129 this section, and in such case, the provisions of the written  
130 agreement shall govern the timely payment of claims by the  
131 pharmacy benefit manager to the pharmacy. If the express written  
132 agreement is silent as to any interest penalty where claims are  
133 not paid in accordance with the agreement, the interest penalty  
134 provision of paragraph (c) of this subsection shall apply.

135 (e) The State Board of Pharmacy may adopt rules and  
136 regulations necessary to ensure compliance with this subsection.

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