

**Adopted
AMENDMENT NO 2 PROPOSED TO**

Cmte Sub for House Bill No. 528

BY: Representative Holland

1 **AMEND** by inserting the following new section after line 1037:

2 **"SECTION 4.** The following shall be codified as Section
3 43-13-121.1, Mississippi Code of 1972:

4 43-13-121.1. (1) It is the intent of the Legislature to
5 implement a "money follows the person" process by which a portion
6 of the money used to cover the cost of nursing facility services
7 for Medicaid-eligible beneficiaries may be transferred to fund
8 home- and community-based waiver services through the Elderly and
9 Disabled Waiver, administered by the Division of Medicaid, and the
10 Independent Living Waiver and the Traumatic Brain Injury/Spinal
11 Cord Injury Waiver, administered by the Department of
12 Rehabilitation Services.

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

22 (3) The authority of the executive director of the division
23 to transfer funds from nursing facility services shall apply to
24 home- and community-based waiver programs administered by the
25 division, the Department of Rehabilitation Services and the
26 Department of Mental Health.

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

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

54 Elderly and Disabled Waiver, the Independent Living Waiver, and
55 the Traumatic Brain Injury/Spinal Cord Injury Waiver, as
56 necessary, to obtain authorization from CMS to specifically serve
57 this group of former nursing facility residents through the "money
58 follows the person" process.

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

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

74 (a) The division or its designee monitors that all
75 provider standards and health and welfare protections are
76 continuously met; and

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

80 (c) All deficiencies identified through this quality
81 monitoring system are addressed in an appropriate and timely
82 manner, consistent with the severity and nature of the
83 deficiencies.

84 (8) There shall be a Money Follows the Person (MFP) Advisory
85 Committee to make recommendations and advise the division with

86 regard to the process mandated in this act, by which funding for
87 nursing facility services for Medicaid-eligible beneficiaries may
88 be used to pay for home- and community-based waiver services for
89 those nursing facility residents who choose to receive those
90 services. The committee shall be composed of the following
91 individuals:

92 (a) The respective chairmen of the House Public Health
93 and Human Services Committee and the Senate Public Health and
94 Welfare Committee;

95 (b) One (1) member of the House of Representatives
96 appointed by the Speaker of the House, and one (1) member of the
97 Senate appointed by the Lieutenant Governor;

98 (c) The executive directors of the State Department of
99 Mental Health and of the State Department of Rehabilitation
100 Services;

101 (d) One (1) member each appointed by the Speaker of the
102 House and the Lieutenant Governor, from among the membership of
103 any recognized statewide association representing the concerns of
104 the nursing facility owners and managers; and

105 (e) One (1) member each appointed by the Chairman of
106 the House Public Health and Human Services Committee and the
107 Chairman of the Senate Public Health and Welfare Committee, from
108 among members of the community representing the concerns of
109 individuals with disabilities.

110 (9) The executive director of the division shall report to
111 the Attorney General the name and location of individuals who have
112 transitioned from nursing facilities to the Elderly and Disabled
113 Waiver, the Independent Living Waiver, and the Traumatic Brain
114 Injury/Spinal Cord Injury Waiver programs. The director shall
115 furnish, to each individual making such a transition and to the
116 person who will be responsible for providing home- and
117 community-based waiver services to the individual, the telephone

118 number of the Attorney General's Office and a copy of the
119 Mississippi Vulnerable Adults Act contained in Sections 43-47-1
120 through 43-47-37, with particular emphasis on the penalties
121 imposed under that act. The Attorney General is authorized to
122 designate members of his office to initiate follow-up visits with
123 those individuals who have made such a transition.

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

127 (a) The number of individuals who have transitioned
128 from nursing facilities to the Elderly and Disabled Waiver, the
129 Independent Living Waiver, and the Traumatic Brain Injury/Spinal
130 Cord Injury Waiver programs;

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

133 (c) The number of individuals on referral lists for the
134 Elderly and Disabled Waiver, the Independent Living Waiver, and
135 the Traumatic Brain Injury/Spinal Cord Injury Waiver programs."

136 **AMEND FURTHER** by renumbering the section that begins on line
137 1038.

138 **AMEND FURTHER** the title by inserting the following after the
139 semicolon on line 15:

140 "TO CODIFY NEW SECTION 43-13-121.1, MISSISSIPPI CODE OF 1972, TO
141 PROVIDE THAT THE DIVISION OF MEDICAID SHALL IMPLEMENT A "MONEY
142 FOLLOWS THE PERSON" PROCESS BY WHICH FUNDING FOR NURSING FACILITY
143 SERVICES FOR MEDICAID-ELIGIBLE BENEFICIARIES MAY BE USED TO PAY
144 FOR HOME- AND COMMUNITY-BASED WAIVER SERVICES FOR THOSE NURSING
145 FACILITY RESIDENTS WHO CHOOSE THOSE SERVICES;"