

By: Senator(s) Bryan, Dearing

To: Public Health and  
WelfareSENATE BILL NO. 3004  
(As Sent to Governor)

1 AN ACT TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION  
2 1-3-24, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "INTELLECTUAL  
3 DISABILITY" WHEN USED IN ANY STATUTE; TO AMEND SECTIONS 1-3-57,  
4 1-3-58, 11-5-49, 11-5-113, 25-3-25, 25-7-61, 35-5-31, 37-3-85,  
5 37-16-11, 37-23-3, 37-23-61, 37-23-63, 37-23-91, 37-101-285,  
6 37-143-13, 41-4-1, 41-4-5, 41-4-7, 41-4-8, 41-4-11, 41-4-23,  
7 41-5-44, 41-7-173, 41-19-1, 41-19-7, 41-19-15, 41-19-17, 41-19-31,  
8 41-19-33, 41-19-37, 41-19-38, 41-19-39, 41-19-41, 41-19-43,  
9 41-19-91, 41-19-103, 41-19-116, 41-19-118, 41-19-141, 41-19-147,  
10 41-19-155, 41-19-157, 41-19-201, 41-19-203, 41-19-205, 41-19-207,  
11 41-19-211, 41-19-213, 41-19-231, 41-19-235, 41-19-237, 41-19-239,  
12 41-19-243, 41-19-245, 41-19-301, 41-21-35, 41-21-61, 41-21-67,  
13 41-21-69, 41-21-73, 41-21-77, 41-21-82, 41-21-83, 41-21-87,  
14 41-21-103, 41-21-109, 41-39-7, 43-6-171, 43-13-105, 43-13-117,  
15 43-17-5, 43-21-105, 43-27-25, 73-19-23, 83-41-205, 83-41-207,  
16 93-1-5, 93-5-1, 97-9-25, 99-13-1, 99-13-3, 99-13-5 AND 99-13-9,  
17 MISSISSIPPI CODE OF 1972, TO MODERNIZE THE TERMINOLOGY THAT IS  
18 USED TO REFER TO PERSONS WITH MENTAL RETARDATION AND THE  
19 COMMISSIONS AND FACILITIES THAT PROVIDE TREATMENT AND CARE TO  
20 THOSE PERSONS, BY REFERRING TO THEM AS PERSONS WITH AN  
21 INTELLECTUAL DISABILITY; TO FURTHER AMEND SECTION 43-13-117,  
22 MISSISSIPPI CODE OF 1972, TO INCLUDE MEDICAL AND MENTAL HEALTH  
23 TREATMENT, CARE AND SERVICES FOR CHILDREN WHO ARE IN THE CUSTODY  
24 OF THE DEPARTMENT OF HUMAN SERVICES IN THOSE TYPES OF SERVICES  
25 PROVIDED UNDER THE MEDICAID EPSDT PROGRAM FOR WHICH THE DEPARTMENT  
26 MAY PROVIDE STATE MATCHING FUNDS TO THE DIVISION OF MEDICAID TO  
27 OBTAIN FEDERAL MATCHING FUNDS THROUGH THE DIVISION; AND FOR  
28 RELATED PURPOSES.

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

30 **SECTION 1.** The following shall be codified as Section  
31 1-3-24, Mississippi Code of 1972:

32 1-3-24. The term "intellectual disability," when used in any  
33 statute, means a disability characterized by significant  
34 limitations both in intellectual functioning and in adaptive  
35 behavior, originates before the age of eighteen (18) years, and  
36 refers to persons who were, are and continue to be diagnosed with  
37 mental retardation.



38           **SECTION 2.** Section 1-3-57, Mississippi Code of 1972, is  
39 amended as follows:

40           1-3-57. The term "unsound mind," when used in any statute in  
41 reference to persons, shall include persons with an intellectual  
42 disability, persons with mental illness, and persons non compos  
43 mentis.

44           **SECTION 3.** Section 1-3-58, Mississippi Code of 1972, is  
45 amended as follows:

46           1-3-58. Whenever the term "ward" is used, it shall be  
47 liberally construed and held to include any and all persons under  
48 every form of legal disability, including, but not limited to, the  
49 disabilities of minority, intellectual disability, mental illness,  
50 unsound mind, alcoholism, addiction to drugs, and convicted  
51 felons.

52           **SECTION 4.** Section 11-5-49, Mississippi Code of 1972, is  
53 amended as follows:

54           11-5-49. In proceedings in matters testamentary and of  
55 administration, in minors' business, and in cases of persons with  
56 an intellectual disability, persons with mental illness and  
57 persons of unsound mind, as provided for by law, no answer shall  
58 be required to any petition or application of any sort. Such a  
59 petition or application shall not be taken as confessed because of  
60 the lack of an answer, but every petition, application, or account  
61 shall be supported by the proper evidence and may be contested  
62 without an answer. All such proceedings shall be as summary, as  
63 the statutes authorizing and regulating them contemplate; however,  
64 when either of the parties having a controversy in court as to any  
65 of those several matters requires and the court sees proper, it  
66 may direct plenary proceedings by bill or petition, to which there  
67 shall be an answer on oath or affirmation. If an adult or sane  
68 party refuses to answer as to any matter alleged in the bill or  
69 petition and proper for the court to decide upon, the party  
70 refusing may be attached, fined, and imprisoned at the discretion



71 of the court, and the matter set forth in the bill or petition  
72 shall be taken as confessed and a decree shall be made  
73 accordingly.

74 **SECTION 5.** Section 11-5-113, Mississippi Code of 1972, is  
75 amended as follows:

76 11-5-113. All the provisions of this chapter on the subject  
77 of sales shall apply to all sales of real estate under any decree  
78 in the chancery court made in matters testamentary and of  
79 administration, minors' business, cases of persons with an  
80 intellectual disability, persons with mental illness and persons  
81 of unsound mind, of partition, and all other matters.

82 **SECTION 6.** Section 25-3-25, Mississippi Code of 1972, is  
83 amended as follows:

84 25-3-25. (1) Except as otherwise provided in subsections  
85 (2) through (9), the salaries of sheriffs of the various counties  
86 are fixed as full compensation for their services.

87 From and after October 1, 1998, the annual salary for each  
88 sheriff shall be based upon the total population of his county  
89 according to the latest federal decennial census in the following  
90 categories and for the following amounts; however, no sheriff  
91 shall be paid less than the salary authorized under this section  
92 to be paid the sheriff based upon the population of the county  
93 according to the 1980 federal decennial census:

94 (a) For counties with a total population of more than  
95 two hundred thousand (200,000), a salary of Ninety Thousand  
96 Dollars (\$90,000.00).

97 (b) For counties with a total population of more than  
98 one hundred thousand (100,000) and not more than two hundred  
99 thousand (200,000), a salary of Eighty-four Thousand Dollars  
100 (\$84,000.00).

101 (c) For counties with a total population of more than  
102 forty-five thousand (45,000) and not more than one hundred



103 thousand (100,000), a salary of Seventy-eight Thousand Dollars  
104 (\$78,000.00).

105 (d) For counties with a total population of more than  
106 thirty-four thousand (34,000) and not more than forty-five  
107 thousand (45,000), a salary of Seventy-two Thousand Dollars  
108 (\$72,000.00).

109 (e) For counties with a total population of more than  
110 twenty-five thousand (25,000) and not more than thirty-four  
111 thousand (34,000), a salary of Sixty-two Thousand Four Hundred  
112 Dollars (\$62,400.00).

113 (f) For counties with a total population of more than  
114 fifteen thousand (15,000) and not more than twenty-five thousand  
115 (25,000), a salary of Sixty Thousand Dollars (\$60,000.00).

116 (g) For counties with a total population of more than  
117 nine thousand five hundred (9,500) and not more than fifteen  
118 thousand (15,000), a salary of Fifty-six Thousand Four Hundred  
119 Dollars (\$56,400.00).

120 (h) For counties with a total population of not more  
121 than nine thousand five hundred (9,500), a salary of Fifty-five  
122 Thousand Dollars (\$55,000.00).

123 (2) In addition to the salary provided for in subsection (1)  
124 of this section, the Board of Supervisors of Leflore County, in  
125 its discretion, may pay an annual supplement to the sheriff of the  
126 county in an amount not to exceed Ten Thousand Dollars  
127 (\$10,000.00). The Legislature finds and declares that the annual  
128 supplement authorized by this subsection is justified in such  
129 county for the following reasons:

130 (a) The Mississippi Department of Corrections operates  
131 and maintains a restitution center within the county;

132 (b) The Mississippi Department of Corrections operates  
133 and maintains a community work center within the county;

134 (c) There is a resident circuit court judge in the  
135 county whose office is located at the Leflore County Courthouse;



136 (d) There is a resident chancery court judge in the  
137 county whose office is located at the Leflore County Courthouse;

138 (e) The Magistrate for the Fourth Circuit Court  
139 District is located in the county and maintains his office at the  
140 Leflore County Courthouse;

141 (f) The Region VI Mental Health-Mental Retardation  
142 Center, which serves a multicounty area, calls upon the sheriff to  
143 provide security for out-of-town mental patients, as well as  
144 patients from within the county;

145 (g) The increased activity of the Child Support  
146 Division of the Department of Human Services in enforcing in the  
147 courts parental obligations has imposed additional duties on the  
148 sheriff; and

149 (h) The dispatchers of the enhanced E-911 system in  
150 place in Leflore County has been placed under the direction and  
151 control of the sheriff.

152 (3) In addition to the salary provided for in subsection (1)  
153 of this section, the Board of Supervisors of Rankin County, in its  
154 discretion, may pay an annual supplement to the sheriff of the  
155 county in an amount not to exceed Ten Thousand Dollars  
156 (\$10,000.00). The Legislature finds and declares that the annual  
157 supplement authorized by this subsection is justified in such  
158 county for the following reasons:

159 (a) The Mississippi Department of Corrections operates  
160 and maintains the Central Mississippi Correctional Facility within  
161 the county;

162 (b) The State Hospital is operated and maintained  
163 within the county at Whitfield;

164 (c) Hudspeth Regional Center, a facility maintained for  
165 the care and treatment of persons with an intellectual disability,  
166 is located within the county;

167 (d) The Mississippi Law Enforcement Officers Training  
168 Academy is operated and maintained within the county;



169           (e) The State Fire Academy is operated and maintained  
170 within the county;

171           (f) The Pearl River Valley Water Supply District,  
172 ordinarily known as the "Reservoir District," is located within  
173 the county;

174           (g) The Jackson International Airport is located within  
175 the county;

176           (h) The patrolling of the state properties located  
177 within the county has imposed additional duties on the sheriff;  
178 and

179           (i) The sheriff, in addition to providing security to  
180 the nearly one hundred thousand (100,000) residents of the county,  
181 has the duty to investigate, solve and assist in the prosecution  
182 of any misdemeanor or felony committed upon any state property  
183 located in Rankin County.

184           (4) In addition to the salary provided for in subsection (1)  
185 of this section, the Board of Supervisors of Neshoba County shall  
186 pay an annual supplement to the sheriff of the county an amount  
187 equal to Ten Thousand Dollars (\$10,000.00).

188           (5) In addition to the salary provided for in subsection (1)  
189 of this section, the Board of Supervisors of Tunica County, in its  
190 discretion, may pay an annual supplement to the sheriff of the  
191 county an amount equal to Ten Thousand Dollars (\$10,000.00),  
192 payable beginning April 1, 1997.

193           (6) In addition to the salary provided for in subsection (1)  
194 of this section, the Board of Supervisors of Hinds County shall  
195 pay an annual supplement to the sheriff of the county in an amount  
196 equal to Fifteen Thousand Dollars (\$15,000.00). The Legislature  
197 finds and declares that the annual supplement authorized by this  
198 subsection is justified in such county for the following reasons:

199           (a) Hinds County has the greatest population of any  
200 county, two hundred fifty-four thousand four hundred forty-one



201 (254,441) by the 1990 census, being almost one hundred thousand  
202 (100,000) more than the next most populous county;

203 (b) Hinds County is home to the State Capitol and the  
204 seat of all state government offices;

205 (c) Hinds County is the third largest county in  
206 geographic area, containing eight hundred seventy-five (875)  
207 square miles;

208 (d) Hinds County is comprised of two (2) judicial  
209 districts, each having a courthouse and county office buildings;

210 (e) There are four (4) resident circuit judges, four  
211 (4) resident chancery judges, and three (3) resident county judges  
212 in Hinds County, the most of any county, with the sheriff acting  
213 as chief executive officer and provider of bailiff services for  
214 all;

215 (f) The main offices for the clerk and most of the  
216 judges and magistrates for the United States District Court for  
217 the Southern District of Mississippi are located within the  
218 county;

219 (g) The state's only urban university, Jackson State  
220 University, is located within the county;

221 (h) The University of Mississippi Medical Center,  
222 combining the medical school, dental school, nursing school and  
223 hospital, is located within the county;

224 (i) Mississippi Veterans Memorial Stadium, the state's  
225 largest sports arena, is located within the county;

226 (j) The Mississippi State Fairgrounds, including the  
227 Coliseum and Trade Mart, are located within the county;

228 (k) Hinds County has the largest criminal population in  
229 the state, such that the Hinds County Sheriff's Department  
230 operates the largest county jail system in the state, housing  
231 almost one thousand (1,000) inmates in three (3) separate  
232 detention facilities;



233           (1) The Hinds County Sheriff's Department handles more  
234 mental and drug and alcohol commitments cases than any other  
235 sheriff's department in the state;

236           (m) The Mississippi Department of Corrections maintains  
237 a restitution center within the county;

238           (n) The Mississippi Department of Corrections regularly  
239 houses as many as one hundred (100) state convicts within the  
240 Hinds County jail system; and

241           (o) The Hinds County Sheriff's Department is regularly  
242 asked to provide security services not only at the Fairgrounds and  
243 Memorial Stadium, but also for events at the Mississippi Museum of  
244 Art and Jackson City Auditorium.

245           (7) In addition to the salary provided for in subsection (1)  
246 of this section, the Board of Supervisors of Wilkinson County, in  
247 its discretion, may pay an annual supplement to the sheriff of the  
248 county in an amount not to exceed Ten Thousand Dollars  
249 (\$10,000.00). The Legislature finds and declares that the annual  
250 supplement authorized by this subsection is justified in such  
251 county because the Mississippi Department of Corrections contracts  
252 for the private incarceration of state inmates at a private  
253 correctional facility within the county.

254           (8) In addition to the salary provided for in subsection (1)  
255 of this section, the Board of Supervisors of Marshall County, in  
256 its discretion, may pay an annual supplement to the sheriff of the  
257 county in an amount not to exceed Ten Thousand Dollars  
258 (\$10,000.00). The Legislature finds and declares that the annual  
259 supplement authorized by this subsection is justified in such  
260 county because the Mississippi Department of Corrections contracts  
261 for the private incarceration of state inmates at a private  
262 correctional facility within the county.

263           (9) In addition to the salary provided in subsection (1) of  
264 this section, the Board of Supervisors of Greene County, in its  
265 discretion, may pay an annual supplement to the sheriff of the





266 county in an amount not to exceed Ten Thousand Dollars  
267 (\$10,000.00). The Legislature finds and declares that the annual  
268 supplement authorized by this subsection is justified in such  
269 county for the following reasons:

270 (a) The Mississippi Department of Corrections operates  
271 and maintains the South Mississippi Correctional Facility within  
272 the county;

273 (b) In 1996, additional facilities to house another one  
274 thousand four hundred sixteen (1,416) male offenders were  
275 constructed at the South Mississippi Correctional Facility within  
276 the county; and

277 (c) The patrolling of the state properties located  
278 within the county has imposed additional duties on the sheriff  
279 justifying additional compensation.

280 (10) In addition to the salary provided in subsection (1) of  
281 this section, the board of supervisors of any county, in its  
282 discretion, may pay an annual supplement to the sheriff of the  
283 county in an amount not to exceed Ten Thousand Dollars  
284 (\$10,000.00). The amount of the supplement shall be spread on the  
285 minutes of the board. The annual supplement authorized in this  
286 subsection shall not be in addition to the annual supplements  
287 authorized in subsections (2) through (9).

288 (11) The salaries provided in this section shall be payable  
289 monthly on the first day of each calendar month by chancery  
290 clerk's warrant drawn on the general fund of the county; however,  
291 the board of supervisors, by resolution duly adopted and entered  
292 on its minutes, may provide that such salaries shall be paid  
293 semimonthly on the first and fifteenth day of each month. If a  
294 pay date falls on a weekend or legal holiday, salary payments  
295 shall be made on the workday immediately preceding the weekend or  
296 legal holiday.

297 **SECTION 7.** Section 25-7-61, Mississippi Code of 1972, is  
298 amended as follows:



299           **[Effective until January 1, 2008, or such time as the Lengthy**  
300 **Trial Fund is fully funded by a specific appropriation of the**  
301 **Legislature, whichever is later, this section shall read as**  
302 **follows:]**

303           25-7-61. (1) Fees of jurors shall be payable as follows:

304           (a) Grand jurors and petit jurors in the chancery,  
305 county, circuit and special eminent domain courts shall be paid an  
306 amount to be set by the board of supervisors, not to be less than  
307 Twenty-five Dollars (\$25.00) per day and not to be greater than  
308 Forty Dollars (\$40.00) per day, plus mileage authorized in Section  
309 25-3-41. In the trial of all cases where jurors are in charge of  
310 bailiffs and are not permitted to separate, the sheriff with the  
311 approval of the trial judge may pay for room and board of jurors  
312 on panel for actual time of trial.

313           No grand juror shall receive any compensation except mileage  
314 unless he has been sworn as provided by Section 13-5-45; and no  
315 petit juror except those jurors called on special venires shall  
316 receive any compensation authorized under this subsection except  
317 mileage unless he has been sworn as provided by Section 13-5-71.

318           (b) Jurors making inquisitions of intellectual  
319 disability, mental illness or unsound mind and jurors on coroner's  
320 inquest shall be paid Five Dollars (\$5.00) per day plus mileage  
321 authorized in Section 25-3-41 by the county treasurer on order of  
322 the board of supervisors on certificate of the clerk of the  
323 chancery court in which the inquisition is held.

324           (c) Jurors in the justice courts shall be paid an  
325 amount of not less than Ten Dollars (\$10.00) per day and not more  
326 than Fifteen Dollars (\$15.00) per day, to be established by the  
327 board of supervisors. In all criminal cases in the justice court  
328 in which the prosecution fails, the fees of jurors shall be paid  
329 by the county treasurer on order of the board of supervisors on  
330 certificate of the county attorney in all counties that have  
331 county attorneys, otherwise by the justice court judge.



332 (2) Any juror may return the fees provided as compensation  
333 for service as a juror to the county that paid for the person's  
334 service as a juror. The fees returned to the county may be  
335 earmarked for a particular purpose to be selected by the juror,  
336 including:

- 337 (a) The local public library;
- 338 (b) Local law enforcement;
- 339 (c) The Mississippi Burn Care Fund created in Section  
340 7-9-70; or
- 341 (d) Any other governmental agency.

342 **[From and after January 1, 2008, or such time as the Lengthy**  
343 **Trial Fund is fully funded by a specific appropriation of the**  
344 **Legislature, whichever is later, this section shall read as**  
345 **follows:]**

346 25-7-61. (1) Fees of jurors shall be payable as follows:  
347 (a) Grand jurors and petit jurors in the chancery,  
348 county, circuit and special eminent domain courts shall be paid an  
349 amount to be set by the board of supervisors, not to be less than  
350 Twenty-five Dollars (\$25.00) per day and not to be greater than  
351 Forty Dollars (\$40.00) per day, plus mileage authorized in Section  
352 25-3-41. In the trial of all cases where jurors are in the charge  
353 of bailiffs and are not permitted to separate, the sheriff with  
354 the approval of the trial judge may pay for room and board of  
355 jurors on panel for actual time of trial.

356 No grand juror shall receive any compensation except mileage  
357 unless the juror has been sworn as provided by Section 13-5-45;  
358 and no petit juror except those jurors called on special venires  
359 shall receive any compensation authorized under this subsection  
360 except mileage unless the juror has been sworn as provided by  
361 Section 13-5-71.

362 (b) Jurors making inquisitions of intellectual  
363 disability, mental illness or unsound mind and jurors on coroner's  
364 inquest shall be paid Five Dollars (\$5.00) per day plus mileage



365 authorized in Section 25-3-41 by the county treasurer on order of  
366 the board of supervisors on certificate of the clerk of the  
367 chancery court in which the inquisition is held.

368 (c) Jurors in the justice courts shall be paid an  
369 amount of not less than Ten Dollars (\$10.00) per day and not more  
370 than Fifteen Dollars (\$15.00) per day, to be established by the  
371 board of supervisors. In all criminal cases in the justice court  
372 in which the prosecution fails, the fees of jurors shall be paid  
373 by the county treasurer on order of the board of supervisors on  
374 certificate of the county attorney in all counties that have  
375 county attorneys, otherwise by the justice court judge.

376 (2) Any juror may return the fees provided as compensation  
377 for service as a juror to the county that paid for the person's  
378 service as a juror. The fees returned to the county may be  
379 earmarked for a particular purpose to be selected by the juror,  
380 including:

- 381 (a) The local public library;
- 382 (b) Local law enforcement;
- 383 (c) The Mississippi Burn Care Fund created in Section  
384 7-9-70; or
- 385 (d) Any other governmental agency.

386 (3) The Administrative Office of Courts shall promulgate  
387 rules to establish a Lengthy Trial Fund to be used to provide full  
388 or partial wage replacement or wage supplementation to jurors who  
389 serve as petit jurors in civil cases for more than ten (10) days.

390 (a) The Uniform Circuit and County Court Rules shall  
391 provide for the following:

392 (i) The selection and appointment of an  
393 administrator for the fund.

394 (ii) Procedures for the administration of the  
395 fund, including payments of salaries of the administrator and  
396 other necessary personnel.



397 (iii) Procedures for the accounting, auditing and  
398 investment of money in the Lengthy Trial Fund.

399 (iv) A report by the Administrative Office of  
400 Courts on the administration of the Lengthy Trial Fund in its  
401 annual report on the judicial branch, setting forth the money  
402 collected for and disbursed from the fund.

403 (v) The Lengthy Trial Fund Administrator and all  
404 other necessary personnel shall be employees of the Administrative  
405 Office of Courts.

406 (b) The administrator shall use any monies deposited in  
407 the Lengthy Trial Fund to pay full or partial wage replacement or  
408 supplementation to jurors whose employers pay less than full  
409 regular wages when the period of jury service lasts more than ten  
410 (10) days.

411 (c) To the extent funds are available in the Lengthy  
412 Trial Fund, and in accordance with any rules or regulations  
413 promulgated by the Administrative Office of Courts, the court may  
414 pay replacement or supplemental wages out of the Lengthy Trial  
415 Fund not to exceed Three Hundred Dollars (\$300.00) per day per  
416 juror beginning on the eleventh day of jury service. In addition,  
417 for any jurors who qualify for payment by virtue of having served  
418 on a jury for more than ten (10) days, the court, upon finding  
419 that the service posed a significant financial hardship to a  
420 juror, even in light of payments made with respect to jury service  
421 after the tenth day, may award replacement or supplemental wages  
422 out of the Lengthy Trial Fund not to exceed One Hundred Dollars  
423 (\$100.00) per day from the fourth to the tenth day of jury  
424 service.

425 (d) Any juror who is serving or has served on a jury  
426 that qualifies for payment from the Lengthy Trial Fund, provided  
427 the service began on or after January 1, 2008, may submit a  
428 request for payment from the Lengthy Trial Fund on a form that the  
429 administrator provides. Payment shall be limited to the



430 difference between the jury fee specified in subsection (1) of  
431 this section and the actual amount of wages a juror earns, up to  
432 the maximum level payable, minus any amount the juror actually  
433 receives from the employer during the same time period.

434 (i) The form shall disclose the juror's regular  
435 wages, the amount the employer will pay during the term of jury  
436 service starting on the eleventh day and thereafter, the amount of  
437 replacement or supplemental wages requested, and any other  
438 information the administrator deems necessary for proper payment.

439 (ii) The juror also shall be required to submit  
440 verification from the employer as to the wage information provided  
441 to the administrator, for example, the employee's most recent  
442 earnings statement or similar document, before initiation of  
443 payment from the fund.

444 (iii) If an individual is self-employed or  
445 receives compensation other than wages, the individual may provide  
446 a sworn affidavit attesting to his or her approximate gross weekly  
447 income, together with such other information as the administrator  
448 may require, in order to verify weekly income.

449 (4) Nothing in this section shall be construed to impose an  
450 obligation on any county to place monies in the Lengthy Trial Fund  
451 or to pay replacement or supplemental wages to any juror from  
452 county funds.

453 **SECTION 8.** Section 35-5-31, Mississippi Code of 1972, is  
454 amended as follows:

455 35-5-31. (1) Whenever, in any proceeding under the laws of  
456 this state for the commitment of a person alleged to be a person  
457 with mental illness, person with an intellectual disability, or  
458 otherwise of unsound mind, or otherwise in need of confinement in  
459 a hospital or other institution for his proper care, it is  
460 determined after the adjudication of the status of the person as  
461 may be required by law that commitment to a state psychiatric  
462 hospital or institution or other institution is necessary for



463 safe-keeping or treatment, and it appears that the person is  
464 eligible for care or treatment by the Veterans Administration or  
465 other agency of the United States government, the court, upon  
466 receipt of a certificate from the Veterans Administration or such  
467 other agency showing that facilities are available and that the  
468 person is eligible for care or treatment in those facilities, may  
469 commit the person to the Veterans Administration or other agency.  
470 The person whose commitment is sought shall be personally served  
471 with notice of the pending commitment proceeding in the manner  
472 provided by the law of this state; and nothing in this section  
473 shall affect his right to appear and be heard in the proceedings.  
474 Upon commitment, the person, when admitted to any facility  
475 operated by the Veterans Administration or other agency within or  
476 without this state shall be subject to the rules and regulations  
477 of the Veterans Administration or other agency. The chief officer  
478 of any facility of the Veterans Administration or institution  
479 operated by any other agency of the United States to which the  
480 person is so committed shall, with respect to the person, be  
481 vested with the same powers as superintendents of state  
482 psychiatric hospitals or institutions within this state with  
483 respect to retention of custody, transfer, parole or discharge.  
484 Jurisdiction is retained in the committing or other appropriate  
485 court of this state at any time to inquire into the mental  
486 condition of the person so committed, and to determine the  
487 necessity for continuance of his restraint, and all commitments  
488 under this section are so conditioned.

489 (2) The judgment or order of commitment by a court of  
490 competent jurisdiction of another state or of the District of  
491 Columbia, committing a person to the Veterans Administration or  
492 other agency of the United States government for care or  
493 treatment, shall have the same force and effect as to the  
494 committed person while in this state as in the jurisdiction in  
495 which is situated the court entering the judgment or making the



496 order, and the courts of the committing state or of the District  
497 of Columbia shall be deemed to have retained jurisdiction of the  
498 person so committed for the purpose of inquiring into the mental  
499 condition of the person and of determining the necessity for  
500 continuance of his restraint, as is provided in subsection (1) of  
501 this section with respect to persons committed by the courts of  
502 this state. Consent is given to the application of the law of the  
503 committing state or District of Columbia in respect to the  
504 authority of the chief officer of any facility of the Veterans  
505 Administration or of any institution operated in this state by any  
506 other agency of the United States to retain custody, or transfer,  
507 parole or discharge the committed person.

508 (3) Upon receipt of a certificate of the Veterans  
509 Administration or such other agency of the United States that  
510 facilities are available for the care or treatment of any person  
511 committed to a state psychiatric hospital or institution or for  
512 the care or treatment of persons similarly afflicted, and that the  
513 person is eligible for care or treatment, the superintendent of  
514 the state psychiatric hospital or institution may cause the  
515 transfer of the person to the Veterans Administration or other  
516 agency of the United States for care or treatment. Upon effecting  
517 any such transfer, the committing court or proper officer of the  
518 court shall be notified of the transfer by the transferring  
519 agency. No person shall be transferred to the Veterans  
520 Administration or other agency of the United States if he is  
521 confined because of conviction of any felony or misdemeanor or if  
522 he has been acquitted of the charge solely on the ground of  
523 insanity, unless before transfer, the court or other authority  
524 originally committing the person enters an order for the transfer  
525 after appropriate motion and hearing.

526 Any person transferred as provided in this section shall be  
527 deemed to be committed to the Veterans Administration or other  
528 agency of the United States under the original commitment.





529           **SECTION 9.** Section 37-3-85, Mississippi Code of 1972, is  
530 amended as follows:

531           37-3-85. (1) The Legislature finds that:

532                   (a) Students who are serious behavior problems in  
533 school are at risk of becoming juvenile and adult offenders;

534                   (b) Growing numbers of children live in conditions that  
535 place them at risk of school failure;

536                   (c) The provision of school and support services to  
537 these children and their families by public and nonprofit agencies  
538 is fragmented and does not prepare these children to learn  
539 effectively and have a successful school experience;

540                   (d) The lack of collaboration among schools, families,  
541 local agencies and other groups involved in family support and  
542 youth development activities results in the inefficient and  
543 ineffective use of resources to meet the needs of these children;

544                   (e) Schools are dedicating an increasing amount of  
545 their time and resources to responding to disruptive and violent  
546 behavior rather than fulfilling their mission to challenge with  
547 high expectations each child to learn, to achieve and to fulfill  
548 his or her potential;

549                   (f) Responding to the needs of students who are at risk  
550 of school failure and providing for a safe and secure learning  
551 environment are cost-effective because it enables the state to  
552 substitute preventive measures for expensive crisis intervention;  
553 and

554                   (g) Differing local needs and local resources  
555 necessitate the development of locally generated, community-based  
556 plans that coordinate and leverage existing resources, not the  
557 imposition of uniform and inflexible, state-mandated plans.

558           (2) There is \* \* \* established within the State Department  
559 of Education the Support Our Students (S.O.S.) program. The  
560 purpose of the program is to award grants to neighborhood- and  
561 community-based organizations to establish local S.O.S. programs



562 that provide high quality after-school mentoring activities for  
563 school-aged children and provide for comprehensive, collaborative  
564 delivery of mentoring services by public and nonpublic agencies to  
565 these children. These services shall be designed to enrich and  
566 make a positive impact on the lives of school-aged children.  
567 These after-school activities may include activities after the  
568 regular school day and activities on days that students are not  
569 required to attend school.

570 (3) The goals of the S.O.S. program are to:

571 (a) Reduce juvenile crime in local communities served  
572 by the program;

573 (b) Recruit community volunteers to provide positive  
574 adult role models for school-aged children and to help supervise  
575 after-school activities;

576 (c) Reduce the number of students who are unsupervised  
577 after school, otherwise known as "latchkey" children;

578 (d) Improve the academic performance of students  
579 participating in the program;

580 (e) Meet the physical, intellectual, emotional and  
581 social needs of students participating in the program and improve  
582 their attitudes and behavior; and

583 (f) Improve coordination of existing resources and  
584 enhance collaboration so as to provide services to school-aged  
585 children effectively and efficiently.

586 (4) As used in this section, "school-aged children" means  
587 children enrolled in kindergarten through the ninth grade.

588 (5) The State Department of Education shall develop and  
589 implement the Support Our Students (S.O.S.) program. The  
590 department shall:

591 (a) Sponsor a statewide conference each year for teams  
592 of interested representatives to provide background information  
593 and assistance regarding all aspects of the program;



594 (b) Disseminate information regarding the program to  
595 interested neighborhood and community groups;

596 (c) Develop and disseminate a request for applications  
597 to establish local S.O.S. programs;

598 (d) Provide initial technical assistance to grant  
599 applicants and ongoing technical assistance as grants are  
600 implemented;

601 (e) Administer funds appropriated by the Legislature;

602 (f) Monitor the grants funded;

603 (g) Revoke a grant if necessary or appropriate;

604 (h) Develop and implement a performance-based  
605 evaluation system to evaluate the program;

606 (i) Report on the program implementation to the  
607 Legislature and the Office of the Governor;

608 (j) Adopt any rules necessary to implement this  
609 section.

610 (6) A community- or neighborhood-based 501(c)(3) entity or a  
611 consortium consisting of one or more local 501(c)(3) entities and  
612 one or more local school districts may apply for a grant.

613 (7) Applicants for grants shall submit to the State  
614 Department of Education an application that includes the following  
615 information:

616 (a) Identification of one or more neighborhoods to be  
617 served by the local S.O.S. program, based on a needs assessment of  
618 existing conditions for school-aged children to be served. Data  
619 used in the needs assessment may include for each neighborhood to  
620 be served by a local program (i) dropout statistics, (ii) the  
621 number and percentage of school-aged children who participate in  
622 the federal subsidized lunch program, (iii) the number of  
623 suspensions and expulsions involving school-aged children, (iv)  
624 the number of children to be served, (v) the number and percentage  
625 of students with two (2) working parents or one (1) single parent  
626 to be served at a site; (vi) the incidence of juvenile crime in



627 the neighborhood, and (vii) any other relevant or unique local  
628 demographic data.

629 Local authorities shall provide this or related information  
630 on a timely basis to local 501(c)(3) entities submitting  
631 applications to establish local S.O.S. programs;

632 (b) A three-year plan that addresses data used in the  
633 needs assessment and that includes proposed goals and anticipated  
634 outcomes of the local S.O.S. program. The plan shall be prepared  
635 after consultation with local after-school programs, schools,  
636 community organizations or groups which have as their purpose  
637 assisting or helping school-aged children who are at risk of  
638 failing in school or entering the juvenile justice system, or  
639 other appropriate groups. In addition, the three-year plan shall  
640 provide for regular collaborative efforts to seek input and advice  
641 from parents of the students being served and from other citizens  
642 who reflect the demographic conditions of the students being  
643 served;

644 (c) A statement of how grant funds would be used to  
645 address local problems and what other resources would be used to  
646 address the problems. This statement should include a list of  
647 services to be offered that are related to the goals and outcomes  
648 and should include plans for recruiting volunteers to assist in  
649 the program's activities; and

650 (d) A process for assessing on an annual basis the  
651 success of the local plan for addressing the goals of the local  
652 S.O.S. program.

653 (8) The department shall develop and disseminate a request  
654 for applications and establish procedures to be followed in  
655 developing and submitting applications to establish local S.O.S.  
656 programs and administering grants to establish local S.O.S.  
657 programs.

658 In reviewing grant applications, the State Superintendent of  
659 Education shall consider the prevalence of under-served students



660 and families in low-income neighborhoods and in isolated rural  
661 areas in the area for which the grant is requested, the severity  
662 of the local problems with regard to children at risk of school  
663 failure and with regard to school discipline, whether the proposed  
664 program meets state standards, and the likelihood that the locally  
665 designed plan will deal with the problems successfully. During  
666 the review process, the superintendent may recommend modifications  
667 in grant applications to applicants. The superintendent shall  
668 submit recommendations to the State Board of Education on which  
669 applicants should receive grants and the amount they should  
670 receive.

671 In selecting grant recipients, the State Board of Education  
672 shall consider (a) the recommendations of the superintendent, (b)  
673 the geographic location of the applicants, and (c) the demographic  
674 profile of the applicants. After considering these factors, the  
675 State Board of Education shall give priority to grant applications  
676 that will serve areas that have a high incidence of juvenile crime  
677 and that propose different approaches that can serve as models for  
678 other communities. The State Board of Education shall select the  
679 grant recipients prior to July 1, 1995, for local programs that  
680 will be in operation at the beginning of the 1995-1996 school  
681 year, and prior to July 1 and thereafter for the appropriate  
682 school year.

683 A grant recipient may request a modification of a grant or  
684 additional funds to implement a grant through the grant  
685 application process. The request shall be reviewed and accepted  
686 or rejected in the same manner as a grant application.

687 (9) The State Department of Education shall administer the  
688 grant program under the direction of the State Board of Education.  
689 The State Department of Education shall provide technical  
690 assistance to grant applicants and recipients.

691 (10) All agencies of the state and local government,  
692 including departments of human services, health departments, local



693 mental health, and intellectual disability commissions, court  
694 personnel, law enforcement agencies and cities and counties shall  
695 cooperate with the State Department of Education and local school  
696 boards that receive grants in coordinating the S.O.S. program at  
697 the state level and in implementing the S.O.S. program at the  
698 local level.

699 (11) The Department of Education shall develop and implement  
700 an evaluation system, under the direction of the State Board of  
701 Education, that will assess the efficiency and effectiveness of  
702 the S.O.S. program. However, private schools shall not be  
703 included under the provisions of this act.

704 **SECTION 10.** Section 37-16-11, Mississippi Code of 1972, is  
705 amended as follows:

706 37-16-11. (1) A student who has been properly classified,  
707 in accordance with rules established by the state board as  
708 "educable person with an intellectual disability," "trainable  
709 "person with an intellectual disability," "deaf," "specific  
710 learning disabled," "physically handicapped whose ability to  
711 communicate orally or in writing is seriously impaired" or  
712 "emotionally handicapped" shall not be required to meet all  
713 requirements of Section 37-16-7, and shall, upon meeting all  
714 applicable requirements prescribed by the district school board,  
715 be awarded a special diploma in a form prescribed by the state  
716 board; \* \* \* however, \* \* \* such special graduation requirements  
717 prescribed by the district school board shall include minimum  
718 graduation requirements as prescribed by the state board. Any  
719 such student who meets all special requirements of the district  
720 school board for his exceptionality, but is unable to meet the  
721 appropriate special state minimum requirements, shall be awarded a  
722 special certificate of completion in a form prescribed by the  
723 state board. Nothing provided in this section, however, shall be  
724 construed to limit or restrict the right of an exceptional student  
725 solely to a special diploma. Any such student shall, upon proper



726 request, be afforded the opportunity to fully meet all  
727 requirements of Section 37-16-7 through the standard procedures  
728 established therein and thereby qualify for a standard diploma  
729 upon graduation.

730 (2) The State Board of Education shall develop and issue  
731 criteria for a Mississippi Occupational Diploma for students  
732 having a disability as defined by the federal Individuals with  
733 Disabilities Education Act. Beginning with the 2002-2003 school  
734 year, any such student, upon proper request, shall be afforded the  
735 opportunity to fully meet such requirements and qualify for an  
736 occupational diploma upon graduation.

737 **SECTION 11.** Section 37-23-3, Mississippi Code of 1972, is  
738 amended as follows:

739 37-23-3. (1) An exceptional child shall be defined as any  
740 child as herein defined, in the age range birth through twenty  
741 (20) years of age with an intellectual disability, hearing  
742 impairments (including deafness), speech or language impairments,  
743 visual impairments (including blindness), emotional disturbance,  
744 orthopedic impairments, autism, traumatic brain injury, other  
745 health impairments, or specific learning disabilities and, by  
746 reason thereof, needs special education and related services. Such  
747 children shall be determined by competent professional persons in  
748 such disciplines as medicine, psychology, special education,  
749 speech pathology and social work and shall be considered  
750 exceptional children for the purposes of Sections 37-23-1 through  
751 37-23-159. Such professional persons shall be approved by the  
752 State Department of Education. The mandate for the provision of  
753 educational programs to exceptional children shall only apply to  
754 the children in the age range three (3) through twenty (20).  
755 Children who are potentially in need of special educational and  
756 related services must be considered for the services on an  
757 individual basis.



758           (2) During the fiscal year 1995 and fiscal year 1996, the  
759 State Department of Education shall conduct a pilot project in one  
760 or more school districts which shall test the method of providing  
761 language services described in this subsection. For purposes of  
762 this pilot project, a child with a disability as defined in the  
763 Individuals with Disabilities Education Act (IDEA) may not be  
764 denied language services because his measured cognitive  
765 functioning is equivalent to or lower than his measured  
766 functioning level in the language area. In order for language  
767 services to be provided for a child, the measure functioning level  
768 of the child in the language area must indicate a delay relative  
769 to the child's chronological age. Individual determination of a  
770 child's needs must take into consideration the need for  
771 development in the language area, the need for support for basic  
772 adaptive skills in language development and the extent to which the  
773 child's lack of ability in the language area may have interfered  
774 with academic achievement or development milestones. In the area  
775 of language development, a child's need of alternative or  
776 augmentative communication modes and the need for language  
777 development must be considered fundamental in making their  
778 determination of need for services.

779           (3) The State Department of Education shall report to the  
780 Education Committees of the House of Representatives and the  
781 Senate by December 1, 1995, and December 1, 1996, on the results  
782 of the pilot project described in subsection (2) of this section.  
783 Such reports shall include, but not be limited to, the project;  
784 the number and ages of the children who applied for participation  
785 and who did participate in the pilot project; and evaluation of  
786 the benefits obtained by the children who participated in the  
787 pilot project; an estimate of the number of children who would  
788 likely utilize similar services if provided on a statewide basis;  
789 and an estimate of the cost of providing such services on a  
790 statewide basis.





791 (4) The State Board of Education shall promulgate  
792 regulations which ensure services are provided to children as such  
793 services are defined in this chapter.

794 **SECTION 12.** Section 37-23-61, Mississippi Code of 1972, is  
795 amended as follows:

796 37-23-61. As used in Sections 37-23-61 through 37-23-75, the  
797 word "child" shall mean any child who cannot pursue all regular  
798 classwork due to reasons of defective hearing, vision, speech,  
799 intellectual disability, or other mental or physical conditions as  
800 determined by competent medical authorities and psychologists.  
801 Those medical authorities and psychologists shall be approved by  
802 the State Department of Education.

803 **SECTION 13.** Section 37-23-63, Mississippi Code of 1972, is  
804 amended as follows:

805 37-23-63. Every child who is a resident citizen of the State  
806 of Mississippi under twenty-one (21) years of age, who cannot  
807 pursue all regular class work due to reasons of defective hearing,  
808 vision, speech, intellectual disability or other mental or  
809 physical conditions as determined by competent medical authorities  
810 and psychologists, who has not finished or graduated from high  
811 school, and who is in attendance in a private school, parochial  
812 school or speech, hearing and/or language clinic that is  
813 accredited by a state or regional accrediting agency or  
814 approved/licensed by the State Department of Education, shall be  
815 eligible and entitled to receive state financial assistance in the  
816 amount set forth in Section 37-23-69. Exceptional children as  
817 defined in Section 37-23-3(1) and who are certified by the  
818 designated state authority as requiring inpatient care in a  
819 private intermediate care facility for the mentally retarded or  
820 psychiatric residential treatment facility, with Medicaid  
821 reimbursement, shall be eligible and entitled to receive state  
822 financial assistance under the provisions of Section 37-23-69, if  
823 an approved private school is operated as an integral part of the



824 facility that provides twenty-four (24) hours a day monitoring,  
825 treatment and education.

826 **SECTION 14.** Section 37-23-91, Mississippi Code of 1972, is  
827 amended as follows:

828 37-23-91. The board of education in any Class 1 county of  
829 the state having a total population of more than one hundred  
830 thousand (100,000) according to the 1960 census and having a total  
831 assessed valuation in excess of Sixty Million Dollars  
832 (\$60,000,000.00), bordering on the Gulf of Mexico and in which  
833 there is a federal military base, under the methods set out in  
834 Sections 37-23-91 through 37-23-111, may establish a child  
835 development center for children in the county who have an  
836 intellectual or physical disability or are otherwise unable to  
837 attend public school, including, but not limited to, any child of  
838 educable or trainable mind under twenty-one (21) years of age for  
839 whose particular educational needs institutional care and training  
840 are not available in such county, or who cannot pursue regular  
841 classwork due to reason or reasons of defective hearing, vision,  
842 speech, intellectual disability or physical conditions, as  
843 determined by competent medical authorities and psychologists who  
844 are approved by the State Board of Education. This specifically  
845 includes, but shall not be limited to, provision for the deaf and  
846 blind of an age under six (6) years, where early training is in  
847 accordance with the most advanced and best approved scientific  
848 methods of instruction, always taking into consideration the best  
849 interests of the child and his improvement at a time during which  
850 he is most susceptible to improvement.

851 **SECTION 15.** Section 37-101-285, Mississippi Code of 1972, is  
852 amended as follows:

853 37-101-285. For the purposes of Section 37-101-291, the  
854 following terms shall have the following meanings unless context  
855 shall prescribe otherwise:



856 (1) "State health institution" or "state health  
857 institutions" means all facilities operated within the Department  
858 of Mental Health, mental health/intellectual disability facilities  
859 under the administration of a regional commission as established  
860 under Section 41-19-31, that are certified by the Department of  
861 Mental Health, University of Mississippi Hospital, the State Board  
862 of Health, health care facilities operated by the Department of  
863 Corrections, and any other public health care facility.

864 (2) "Health care professions" means nurses, nurse  
865 practitioners, speech pathologists, psychologists, occupational  
866 therapists, physical therapists, and any other critical need  
867 profession determined by the sponsoring state health institution.

868 **SECTION 16.** Section 37-143-13, Mississippi Code of 1972, is  
869 amended as follows:

870 37-143-13. (1) There is established a health care  
871 professions' loan program. It is the intent of the Legislature  
872 that persons declaring an intention to work at certain state  
873 health institutions as nurses, nurse practitioners, speech  
874 pathologists, psychologists, occupational therapists and physical  
875 therapists, shall be eligible for a loan for the purpose of  
876 acquiring an education in such professions. The board of trustees  
877 shall enter into contracts with applicants, providing that such  
878 loans may be discharged by working as a health care professional  
879 in a state health institution, as defined in this section, for a  
880 period of time after graduation equal to the period of study  
881 provided under the scholarship. Such contracts shall provide that  
882 for each year of service, the appropriate portion of the  
883 outstanding balance of principal and interest of such loan shall  
884 be converted to interest-free scholarships and discharged.

885 (2) "State health institution" shall mean any of the  
886 following: Any facility or program operated by the Department of  
887 Mental Health; the State Board of Health; mental  
888 health/intellectual disability facilities under the administration



889 of a regional commission as established under Section 41-19-31  
890 which are certified by the Department of Mental Health; and health  
891 care facilities under the Department of Corrections.

892 (3) The board of trustees shall establish rules and  
893 regulations as it deems necessary and proper to carry out the  
894 purposes and intent of this section.

895 **SECTION 17.** Section 41-4-1, Mississippi Code of 1972, is  
896 amended as follows:

897 41-4-1. The purpose of this chapter is to coordinate,  
898 develop, improve, plan for, and provide all services for persons  
899 of this state with mental illness, emotional disturbance,  
900 alcoholism, drug dependence, and an intellectual disability; to  
901 promote, safeguard and protect human dignity, social well-being  
902 and general welfare of these persons under the cohesive control of  
903 one (1) coordinating and responsible agency so that mental health  
904 and intellectual disability services and facilities may be  
905 uniformly provided more efficiently and economically to any  
906 resident of the State of Mississippi; and further to seek means  
907 for the prevention of these disabilities.

908 **SECTION 18.** Section 41-4-5, Mississippi Code of 1972, is  
909 amended as follows:

910 41-4-5. There is \* \* \* created the State Department of  
911 Mental Health, herein referred to as "department," which shall  
912 consist of four (4) or more divisions, among them the Division of  
913 Intellectual Disabilities, the Division of Alcohol and Drug  
914 Misuse, the Division of Mental Health, and the Division of  
915 Administration, Planning and Coordination, and such other  
916 divisions as the board \* \* \* deems appropriate.

917 **SECTION 19.** Section 41-4-7, Mississippi Code of 1972, is  
918 amended as follows:

919 41-4-7. The State Board of Mental Health shall have the  
920 following powers and duties:



921           (a) To appoint a full-time Executive Director of the  
922 Department of Mental Health, who shall be employed by the board  
923 and shall serve as executive secretary to the board. The first  
924 director shall be a duly licensed physician with special interest  
925 and competence in psychiatry, and shall possess a minimum of three  
926 (3) years' experience in clinical and administrative psychiatry.  
927 Subsequent directors shall possess at least a master's degree or  
928 its equivalent, and shall possess at least ten (10) years'  
929 administrative experience in the field of mental health. The  
930 salary of the executive director shall be determined by the board;

931           (b) To set up state plans for the purpose of  
932 controlling and treating any and all forms of mental and emotional  
933 illness, alcoholism, drug misuse and developmental disabilities;

934           (c) To supervise, coordinate and establish standards  
935 for all operations and activities of the state related to mental  
936 health and providing mental health services. Nothing in this  
937 chapter shall preclude the services of a psychiatric/mental health  
938 nurse practitioner in accordance with an established nurse  
939 practitioner-physician protocol. The board shall have the  
940 authority to develop and implement all standards and plans and  
941 shall have the authority to establish appropriate actions,  
942 including financially punitive actions, to ensure enforcement of  
943 these established standards, in accordance with the Administrative  
944 Procedures Law (Section 25-43-1 et seq.). This paragraph (c)  
945 shall stand repealed on July 1, 2010;

946           (d) To enter into contracts with any other state or  
947 federal agency, or with any private person, organization or group  
948 capable of contracting, if it finds such action to be in the  
949 public interest;

950           (e) To collect reasonable fees for its services;  
951 however, if it is determined that a person receiving services is  
952 unable to pay the total fee, the department shall collect any  
953 amount such person is able to pay;



954 (f) To certify, coordinate and establish minimum  
955 standards and establish minimum required services for regional  
956 mental health and intellectual disability commissions and other  
957 community service providers for community or regional programs and  
958 services in mental health, intellectual disabilities, alcoholism,  
959 drug misuse, developmental disabilities, compulsive gambling,  
960 addictive disorders and related programs throughout the state.  
961 Such regional mental health and intellectual disability  
962 commissions and other community service providers shall submit an  
963 annual operational plan to the State Department of Mental Health  
964 for approval or disapproval based on the minimum standards and  
965 minimum required services established by the department for  
966 certification. If the department finds deficiencies in the plan  
967 of any regional commission or community service provider based on  
968 the minimum standards and minimum required services established  
969 for certification, the department shall give the regional  
970 commission or community service provider a six-month probationary  
971 period to bring its standards and services up to the established  
972 minimum standards and minimum required services. After the  
973 six-month probationary period, if the department determines that  
974 the regional commission or community service provider still does  
975 not meet the minimum standards and minimum required services  
976 established for certification, the department may remove the  
977 certification of the commission or provider. However, the  
978 department shall not mandate a standard or service, or decertify a  
979 regional commission or community service provider for not meeting  
980 a standard or service, if the standard or service does not have  
981 funding appropriated by the Legislature or have a funding source  
982 from the State Department of Mental Health or a local funding  
983 source. The State Board of Mental Health shall promulgate rules  
984 and regulations necessary to implement the provisions of this  
985 paragraph (f), in accordance with the Administrative Procedures  
986 Law (Section 25-43-1 et seq.);



987 (g) To establish and promulgate reasonable minimum  
988 standards for the construction and operation of state and all  
989 Department of Mental Health certified facilities, including  
990 reasonable minimum standards for the admission, diagnosis, care,  
991 treatment, transfer of patients and their records, and also  
992 including reasonable minimum standards for providing day care,  
993 outpatient care, emergency care, inpatient care and follow-up  
994 care, when such care is provided for persons with mental or  
995 emotional illness, an intellectual disability, alcoholism, drug  
996 misuse and developmental disabilities;

997 (h) To assist community or regional programs consistent  
998 with the purposes of this chapter by making grants and contracts  
999 from available funds;

1000 (i) To establish and collect reasonable fees for  
1001 necessary inspection services incidental to certification or  
1002 compliance;

1003 (j) To accept gifts, trusts, bequests, grants,  
1004 endowments or transfers of property of any kind;

1005 (k) To receive monies coming to it by way of fees for  
1006 services or by appropriations;

1007 (l) To serve as the single state agency in receiving  
1008 and administering any and all funds available from any source for  
1009 the purpose of service delivery, training, research and education  
1010 in regard to all forms of mental illness, intellectual  
1011 disabilities, alcoholism, drug misuse and developmental  
1012 disabilities, unless such funds are specifically designated to a  
1013 particular agency or institution by the federal government, the  
1014 Mississippi Legislature or any other grantor;

1015 (m) To establish mental health holding centers for the  
1016 purpose of providing short-term emergency mental health treatment,  
1017 places for holding persons awaiting commitment proceedings or  
1018 awaiting placement in a state mental health facility following  
1019 commitment, and for diverting placement in a state mental health



1020 facility. These mental health holding facilities shall be readily  
1021 accessible, available statewide, and be in compliance with  
1022 emergency services' minimum standards. They shall be  
1023 comprehensive and available to triage and make appropriate  
1024 clinical disposition, including the capability to access inpatient  
1025 services or less restrictive alternatives, as needed, as  
1026 determined by medical staff. Such facility shall have medical,  
1027 nursing and behavioral services available on a  
1028 twenty-four-hour-a-day basis. The board may provide for all or  
1029 part of the costs of establishing and operating the holding  
1030 centers in each district from such funds as may be appropriated to  
1031 the board for such use, and may participate in any plan or  
1032 agreement with any public or private entity under which the entity  
1033 will provide all or part of the costs of establishing and  
1034 operating a holding center in any district;

1035 (n) To certify/license case managers, mental health  
1036 therapists, intellectual disability therapists, mental  
1037 health/intellectual disability program administrators, addiction  
1038 counselors and others as deemed appropriate by the board. Persons  
1039 already professionally licensed by another state board or agency  
1040 are not required to be certified/licensed under this section by  
1041 the Department of Mental Health. The department shall not use  
1042 professional titles in its certification/licensure process for  
1043 which there is an independent licensing procedure. Such  
1044 certification/licensure shall be valid only in the state mental  
1045 health system, in programs funded and/or certified by the  
1046 Department of Mental Health, and/or in programs certified/licensed  
1047 by the State Department of Health that are operated by the state  
1048 mental health system serving persons with mental illness, an  
1049 intellectual disability, a developmental disability or \* \* \*  
1050 addictions, and shall not be transferable;

1051 (o) To develop formal mental health worker  
1052 qualifications for regional mental health and intellectual





1053 disability commissions and other community service providers. The  
1054 State Personnel Board shall develop and promulgate a recommended  
1055 salary scale and career ladder for all regional mental  
1056 health/intellectual disability center therapists and case managers  
1057 who work directly with clients. The State Personnel Board shall  
1058 also develop and promulgate a career ladder for all direct care  
1059 workers employed by the State Department of Mental Health;

1060 (p) The employees of the department shall be governed  
1061 by personnel merit system rules and regulations, the same as other  
1062 employees in state services;

1063 (q) To establish such rules and regulations as may be  
1064 necessary in carrying out the provisions of this chapter,  
1065 including the establishment of a formal grievance procedure to  
1066 investigate and attempt to resolve consumer complaints;

1067 (r) To grant easements for roads, utilities and any  
1068 other purpose it finds to be in the public interest;

1069 (s) To survey statutory designations, building markers  
1070 and the names given to mental health/intellectual disability  
1071 facilities and proceedings in order to recommend deletion of  
1072 obsolete and offensive terminology relative to the mental  
1073 health/intellectual disability system. Based upon a  
1074 recommendation of the executive director, the board shall have the  
1075 authority to name/rename any facility operated under the auspices  
1076 of the Department of Mental Health for the sole purpose of  
1077 deleting such terminology;

1078 (t) To ensure an effective case management system  
1079 directed at persons who have been discharged from state and  
1080 private psychiatric hospitals to ensure their continued well-being  
1081 in the community;

1082 (u) To develop formal service delivery standards  
1083 designed to measure the quality of services delivered to community  
1084 clients, as well as the timeliness of services to community



1085 clients provided by regional mental health/intellectual disability  
1086 commissions and other community services providers;

1087 (v) To establish regional state offices to provide  
1088 mental health crisis intervention centers and services available  
1089 throughout the state to be utilized on a case-by-case emergency  
1090 basis. The regional services director, other staff and delivery  
1091 systems shall meet the minimum standards of the Department of  
1092 Mental Health;

1093 (w) To require performance contracts with community  
1094 mental health/intellectual disability service providers to contain  
1095 performance indicators to measure successful outcomes, including  
1096 diversion of persons from inpatient psychiatric hospitals,  
1097 rapid/timely response to emergency cases, client satisfaction with  
1098 services and other relevant performance measures;

1099 (x) To enter into interagency agreements with other  
1100 state agencies, school districts and other local entities as  
1101 determined necessary by the department to ensure that local mental  
1102 health service entities are fulfilling their responsibilities to  
1103 the overall state plan for behavioral services;

1104 (y) To establish and maintain a toll-free grievance  
1105 reporting telephone system for the receipt and referral for  
1106 investigation of all complaints by clients of state and community  
1107 mental health/intellectual disability facilities;

1108 (z) To establish a peer review/quality assurance  
1109 evaluation system that assures that appropriate assessment,  
1110 diagnosis and treatment is provided according to established  
1111 professional criteria and guidelines;

1112 (aa) To develop and implement state plans for the  
1113 purpose of assisting with the care and treatment of persons with  
1114 Alzheimer's disease and other dementia. This plan shall include  
1115 education and training of service providers, caregivers in the  
1116 home setting and others who deal with persons with Alzheimer's  
1117 disease and other dementia, and development of adult day care,



1118 family respite care and counseling programs to assist families who  
1119 maintain persons with Alzheimer's disease and other dementia in  
1120 the home setting. No agency shall be required to provide any  
1121 services under this section until such time as sufficient funds  
1122 have been appropriated or otherwise made available by the  
1123 Legislature specifically for the purposes of the treatment of  
1124 persons with Alzheimer's and other dementia;

1125           (bb) Working with the advice and consent of the  
1126 administration of Ellisville State School, to enter into  
1127 negotiations with the Economic Development Authority of Jones  
1128 County for the purpose of negotiating the possible exchange, lease  
1129 or sale of lands owned by Ellisville State School to the Economic  
1130 Development Authority of Jones County. It is the intent of the  
1131 Mississippi Legislature that such negotiations shall ensure that  
1132 the financial interest of the persons with an intellectual  
1133 disability served by Ellisville State School will be held  
1134 paramount in the course of these negotiations. The Legislature  
1135 also recognizes the importance of economic development to the  
1136 citizens of the State of Mississippi and Jones County, and  
1137 encourages fairness to the Economic Development Authority of Jones  
1138 County. Any negotiations proposed which would result in the  
1139 recommendation for exchange, lease or sale of lands owned by  
1140 Ellisville State School must have the approval of the State Board  
1141 of Mental Health. The State Board of Mental Health may and has  
1142 the final authority as to whether or not these negotiations result  
1143 in the exchange, lease or sale of the properties it currently  
1144 holds in trust for persons with an intellectual disability served  
1145 at Ellisville State School.

1146           If the State Board of Mental Health authorizes the sale of  
1147 lands owned by Ellisville State School, as provided for under this  
1148 paragraph (bb), the monies derived from the sale shall be placed  
1149 into a special fund that is created in the State Treasury to be  
1150 known as the "Ellisville State School Client's Trust Fund." The



1151 principal of the trust fund shall remain inviolate and shall never  
1152 be expended. Any interest earned on the principal may be expended  
1153 solely for the benefits of clients served at Ellisville State  
1154 School. The State Treasurer shall invest the monies of the trust  
1155 fund in any of the investments authorized for the Mississippi  
1156 Prepaid Affordable College Tuition Program under Section 37-155-9,  
1157 and those investments shall be subject to the limitations  
1158 prescribed by Section 37-155-9. Unexpended amounts remaining in  
1159 the trust fund at the end of a fiscal year shall not lapse into  
1160 the State General Fund, and any interest earned on amounts in the  
1161 trust fund shall be deposited to the credit of the trust fund.  
1162 The administration of Ellisville State School may use any interest  
1163 earned on the principal of the trust fund, upon appropriation by  
1164 the Legislature, as needed for services or facilities by the  
1165 clients of Ellisville State School. Ellisville State School shall  
1166 make known to the Legislature, through the Legislative Budget  
1167 Committee and the respective Appropriations Committees of the  
1168 House and Senate, its proposed use of interest earned on the  
1169 principal of the trust fund for any fiscal year in which it  
1170 proposes to make expenditures thereof. The State Treasurer shall  
1171 provide Ellisville State School with an annual report on the  
1172 Ellisville State School Client's Trust Fund to indicate the total  
1173 monies in the trust fund, interest earned during the year,  
1174 expenses paid from the trust fund and such other related  
1175 information.

1176 Nothing in this section shall be construed as applying to or  
1177 affecting mental health/intellectual disability services provided  
1178 by hospitals as defined in Section 41-9-3(a), and/or their  
1179 subsidiaries and divisions, which hospitals, subsidiaries and  
1180 divisions are licensed and regulated by the Mississippi State  
1181 Department of Health unless such hospitals, subsidiaries or  
1182 divisions voluntarily request certification by the Mississippi  
1183 State Department of Mental Health.



1184 All new programs authorized under this section shall be  
1185 subject to the availability of funds appropriated therefor by the  
1186 Legislature;

1187 (cc) Working with the advice and consent of the  
1188 administration of Boswell Regional Center, to enter into  
1189 negotiations with the Economic Development Authority of Simpson  
1190 County for the purpose of negotiating the possible exchange, lease  
1191 or sale of lands owned by Boswell Regional Center to the Economic  
1192 Development Authority of Simpson County. It is the intent of the  
1193 Mississippi Legislature that such negotiations shall ensure that  
1194 the financial interest of the persons with an intellectual  
1195 disability served by Boswell Regional Center will be held  
1196 paramount in the course of these negotiations. The Legislature  
1197 also recognizes the importance of economic development to the  
1198 citizens of the State of Mississippi and Simpson County, and  
1199 encourages fairness to the Economic Development Authority of  
1200 Simpson County. Any negotiations proposed which would result in  
1201 the recommendation for exchange, lease or sale of lands owned by  
1202 Boswell Regional Center must have the approval of the State Board  
1203 of Mental Health. The State Board of Mental Health may and has  
1204 the final authority as to whether or not these negotiations result  
1205 in the exchange, lease or sale of the properties it currently  
1206 holds in trust for persons with an intellectual disability served  
1207 at Boswell Regional Center. In any such exchange, lease or sale  
1208 of such lands owned by Boswell Regional Center, title to all  
1209 minerals, oil and gas on such lands shall be reserved, together  
1210 with the right of ingress and egress to remove same, whether such  
1211 provisions be included in the terms of any such exchange, lease or  
1212 sale or not.

1213 If the State Board of Mental Health authorizes the sale of  
1214 lands owned by Boswell Regional Center, as provided for under this  
1215 paragraph (cc), the monies derived from the sale shall be placed  
1216 into a special fund that is created in the State Treasury to be



1217 known as the "Boswell Regional Center Client's Trust Fund." The  
1218 principal of the trust fund shall remain inviolate and shall never  
1219 be expended. Any earnings on the principal may be expended solely  
1220 for the benefits of clients served at Boswell Regional Center.  
1221 The State Treasurer shall invest the monies of the trust fund in  
1222 any of the investments authorized for the Mississippi Prepaid  
1223 Affordable College Tuition Program under Section 37-155-9, and  
1224 those investments shall be subject to the limitations prescribed  
1225 by Section 37-155-9. Unexpended amounts remaining in the trust  
1226 fund at the end of a fiscal year shall not lapse into the State  
1227 General Fund, and any earnings on amounts in the trust fund shall  
1228 be deposited to the credit of the trust fund. The administration  
1229 of Boswell Regional Center may use any earnings on the principal  
1230 of the trust fund, upon appropriation by the Legislature, as  
1231 needed for services or facilities by the clients of Boswell  
1232 Regional Center. Boswell Regional Center shall make known to the  
1233 Legislature, through the Legislative Budget Committee and the  
1234 respective Appropriations Committees of the House and Senate, its  
1235 proposed use of the earnings on the principal of the trust fund  
1236 for any fiscal year in which it proposes to make expenditures  
1237 thereof. The State Treasurer shall provide Boswell Regional  
1238 Center with an annual report on the Boswell Regional Center  
1239 Client's Trust Fund to indicate the total monies in the trust  
1240 fund, interest and other income earned during the year, expenses  
1241 paid from the trust fund and such other related information.

1242 Nothing in this section shall be construed as applying to or  
1243 affecting mental health/intellectual disability services provided  
1244 by hospitals as defined in Section 41-9-3(a), and/or their  
1245 subsidiaries and divisions, which hospitals, subsidiaries and  
1246 divisions are licensed and regulated by the Mississippi State  
1247 Department of Health unless such hospitals, subsidiaries or  
1248 divisions voluntarily request certification by the Mississippi  
1249 State Department of Mental Health.



1250 All new programs authorized under this section shall be  
1251 subject to the availability of funds appropriated therefor by the  
1252 Legislature;

1253 (dd) Notwithstanding any other section of the code, the  
1254 Board of Mental Health shall be authorized to fingerprint and  
1255 perform a criminal history record check on every employee or  
1256 volunteer. Every employee and volunteer shall provide a valid  
1257 current social security number and/or driver's license number  
1258 which shall be furnished to conduct the criminal history record  
1259 check. If no disqualifying record is identified at the state  
1260 level, fingerprints shall be forwarded to the Federal Bureau of  
1261 Investigation for a national criminal history record check;

1262 (ee) The Department of Mental Health shall have the  
1263 authority for the development of a consumer friendly single point  
1264 of intake and referral system within its service areas for persons  
1265 with mental illness, an intellectual disability, developmental  
1266 disabilities or alcohol or substance abuse who need assistance  
1267 identifying or accessing appropriate services. The department  
1268 will develop and implement a comprehensive evaluation procedure  
1269 ensuring that, where appropriate, the affected person or their  
1270 parent or legal guardian will be involved in the assessment and  
1271 planning process. The department, as the point of intake and as  
1272 service provider, shall have the authority to determine the  
1273 appropriate institutional, hospital or community care setting for  
1274 persons who have been diagnosed with mental illness, an  
1275 intellectual disability, developmental disabilities and/or alcohol  
1276 or substance abuse, and may provide for the least restrictive  
1277 placement if the treating professional believes such a setting is  
1278 appropriate, if the person affected or their parent or legal  
1279 guardian wants such services, and if the department can do so with  
1280 a reasonable modification of the program without creating a  
1281 fundamental alteration of the program. The least restrictive  
1282 setting could be an institution, hospital or community setting,



1283 based upon the needs of the affected person or their parent or  
1284 legal guardian;

1285           (ff) To have the sole power and discretion to enter  
1286 into, sign, execute and deliver long-term or multiyear leases of  
1287 real and personal property owned by the Department of Mental  
1288 Health to and from other state and federal agencies and private  
1289 entities deemed to be in the public's best interest. Any monies  
1290 derived from such leases shall be deposited into the funds of the  
1291 Department of Mental Health for its exclusive use. Leases to  
1292 private entities shall be approved by the Department of Finance  
1293 and Administration and all leases shall be filed with the  
1294 Secretary of State;

1295           (gg) To certify and establish minimum standards and  
1296 minimum required services for county facilities used for housing,  
1297 feeding and providing medical treatment for any person who has  
1298 been involuntarily ordered admitted to a treatment center by a  
1299 court of competent jurisdiction. If the department finds  
1300 deficiencies in any such county facility or its provider based on  
1301 the minimum standards and minimum required services established  
1302 for certification, the department shall give the county or its  
1303 provider a six-month probationary period to bring its standards  
1304 and services up to the established minimum standards and minimum  
1305 required services. After the six-month probationary period, if  
1306 the department determines that the county or its provider still  
1307 does not meet the minimum standards and minimum required services,  
1308 the department may remove the certification of the county or  
1309 provider and require the county to contract with another county  
1310 having a certified facility to hold those persons for that period  
1311 of time pending transportation and admission to a state treatment  
1312 facility. Any cost incurred by a county receiving an  
1313 involuntarily committed person from a county with a decertified  
1314 holding facility shall be reimbursed by the home county to the  
1315 receiving county.





1316           **SECTION 20.** Section 41-4-8, Mississippi Code of 1972, is  
1317 amended as follows:

1318           41-4-8. (1) A person shall not make, present or cause to be  
1319 made or presented a material falsification of diagnosis of a  
1320 Medicaid-eligible client for a claim for Medicaid mental health  
1321 services benefits, knowing the diagnosis and claim to be false,  
1322 fictitious or fraudulent.

1323           (2) A person who violates this section shall be guilty of a  
1324 felony and, upon conviction thereof, shall be punished by  
1325 imprisonment for not more than five (5) years, or by a fine of not  
1326 more than One Hundred Thousand Dollars (\$100,000.00), or both.

1327           (3) For purposes of subsection (1), if a regional mental  
1328 health/intellectual disability center submits claims for Medicaid  
1329 reimbursement or other funds from the Department of Mental Health,  
1330 the lack of a certified physician or psychologist evaluation of  
1331 the client for such claim as required under Section 41-4-7(c)  
1332 shall be deemed a material falsification of diagnosis by the  
1333 person responsible for making or presenting such claim.

1334           **SECTION 21.** Section 41-4-11, Mississippi Code of 1972, is  
1335 amended as follows:

1336           41-4-11. (1) On July 1, 1974, the Board of Trustees of  
1337 Mental Institutions of the State of Mississippi and the  
1338 Mississippi Interagency Commission on Mental Illness and Mental  
1339 Retardation shall be abolished. The authority now vested in the  
1340 State Board of Health relating to mental health, drug misuse and  
1341 alcoholism is \* \* \* rescinded as of July 1, 1974.

1342           (2) As of July 1, 1974, the Mississippi State Hospital at  
1343 Whitfield, the East Mississippi State Hospital at Meridian, the  
1344 Ellisville State School at Ellisville, the North Mississippi  
1345 Regional Center at Oxford, and any other mental or intellectual  
1346 disability facility that may be established, shall become subject  
1347 to the jurisdiction and control of the State Department of Mental  
1348 Health.



1349 (3) All duties, responsibilities, authority, power, assets,  
1350 liabilities, contractual rights and obligations, and property  
1351 rights, whether accruing or vesting in the abolished agencies  
1352 before or after the effective date of this chapter, are \* \* \*  
1353 vested in the State Board of Mental Health.

1354 (4) The board upon recommendation of the executive director  
1355 shall select the heads of divisions and institutions necessary to  
1356 carry out the provisions of this chapter who shall have  
1357 qualifications appropriate to the duties they must discharge.

1358 (5) Employees of the abolished agencies or divisions of  
1359 agencies holding positions on June 30, 1974, shall be employees of  
1360 the State Department of Mental Health on July 1, 1974. The board  
1361 may combine or abolish positions as necessary to carry out the  
1362 provisions of this chapter.

1363 (6) Subject to the provisions and limitations of this  
1364 chapter as expressly set forth in Section 41-4-13, all offices,  
1365 services, programs and other activities of the abolished agencies  
1366 or divisions of agencies are \* \* \* made offices, services,  
1367 programs or other activities of the State Department of Mental  
1368 Health, and the board is \* \* \* authorized to reorganize such  
1369 offices, services, programs or other activities so as to achieve  
1370 economy and efficiency; and the \* \* \* board may establish bureaus,  
1371 divisions, hospitals, clinics, mental health centers, homes for  
1372 persons with an intellectual disability, or other facilities for  
1373 providing mental health services if it finds such action to be in  
1374 the public interest.

1375 **SECTION 22.** Section 41-4-23, Mississippi Code of 1972, is  
1376 amended as follows:

1377 41-4-23. (a) It will be the duty of the director of any  
1378 mental health or intellectual disability facility under the  
1379 direction or control of the State Department of Mental Health to  
1380 designate certain employees as security guards and campus police.  
1381 The names, qualifications, and training of such campus police will



1382 be reported to the Executive Director of the State Department of  
1383 Mental Health and spread upon the official minutes of the State  
1384 Board of Mental Health.

1385 All campus police, subsequent to employment but prior to  
1386 performing duties as campus police, will attend and satisfactorily  
1387 complete the training course required for law enforcement officers  
1388 at the Law Enforcement Officer's Training Academy or an equivalent  
1389 facility. Campus police training may be at the expense of the  
1390 Department of Mental Health and conditioned upon work repayment by  
1391 the employee in accordance with educational leave regulations  
1392 promulgated by the State Board of Mental Health. Failure to meet  
1393 repayment obligations may result in revocation of law enforcement  
1394 certification in the same manner provided in Section 37-101-291.  
1395 A complete record of all law enforcement training of each employee  
1396 will be maintained in each employee's record of employment. A  
1397 master file of all such employees' training will be kept in the  
1398 central office of the State Department of Mental Health.

1399 (b) All campus police will be duly constituted peace  
1400 officers with powers and duties of a constable but such authority  
1401 may be exercised only on the premises of institutions under the  
1402 control of the State Department of Mental Health and public  
1403 property immediately adjacent to such premises. Each person  
1404 designated as a security guard or campus police will enter into  
1405 bond in the penalty amount of not less than Ten Thousand Dollars  
1406 (\$10,000.00), the premium for which shall be paid by the facility  
1407 employing such security guard or campus police.

1408 (c) All security guards and campus police will exercise  
1409 their authority while in performance of their duty on any of the  
1410 facilities under the direction or control of the State Department  
1411 of Mental Health and public property immediately adjacent to such  
1412 facilities; will be required to dress in uniforms prescribed by  
1413 the State Board of Mental Health; and will be authorized to carry  
1414 weapons. Employees designated as campus police shall be duly



1415 sworn and vested with authority to bear arms and make arrests, and  
1416 shall exercise primarily the responsibilities of the prevention  
1417 and detection of crime, the apprehension of criminals, and the  
1418 enforcement of the ordinances and policies of the Department of  
1419 Mental Health, a political subdivision of the State of  
1420 Mississippi. Employees designated as campus police shall be  
1421 considered law enforcement officers within the meaning of Section  
1422 45-6-3.

1423       **SECTION 23.** Section 41-5-44, Mississippi Code of 1972, is  
1424 amended as follows:

1425       41-5-44. (a) The Board of Mental Health is \* \* \* directed,  
1426 if such is determined to be feasible by the board, to establish,  
1427 equip, staff and operate nursing homes for \* \* \* patients with an  
1428 intellectual disability. Those nursing homes shall be equipped,  
1429 staffed and operated in accordance with the minimum standards  
1430 established by the State Department of Health, and shall meet all  
1431 the requirements for the admission and care of patients eligible  
1432 for Medicare and Medicaid assistance as required by Titles XVIII  
1433 and XIX of the Social Security Act, as amended.

1434       (b) Admission to the nursing homes shall be limited to those  
1435 patients who have been admitted to the mental institutions or  
1436 intellectual disability centers or eligible for admission to the  
1437 mental institutions or intellectual disability centers according  
1438 to state laws and who have been certified as eligible for Medicare  
1439 or Medicaid assistance as determined by the provisions of  
1440 Mississippi laws governing the administration of Titles XVIII and  
1441 XIX of the Social Security Act, as amended.

1442       (c) The purpose of this section is to provide a nursing  
1443 facility within the environs of the former Tuberculosis Sanatorium  
1444 of Mississippi, thereby providing a needed service to eligible  
1445 patients by making use of available buildings and resources for  
1446 their care and constituting an additional service rendered by the  
1447 institution.



1448           **SECTION 24.** Section 41-7-173, Mississippi Code of 1972, is  
1449 amended as follows:

1450           41-7-173. For the purposes of Section 41-7-171 et seq., the  
1451 following words shall have the meanings ascribed herein, unless  
1452 the context otherwise requires:

1453           (a) "Affected person" means (i) the applicant; (ii) a  
1454 person residing within the geographic area to be served by the  
1455 applicant's proposal; (iii) a person who regularly uses health  
1456 care facilities or HMO's located in the geographic area of the  
1457 proposal which provide similar service to that which is proposed;  
1458 (iv) health care facilities and HMO's which have, prior to receipt  
1459 of the application under review, formally indicated an intention  
1460 to provide service similar to that of the proposal being  
1461 considered at a future date; (v) third-party payers who reimburse  
1462 health care facilities located in the geographical area of the  
1463 proposal; or (vi) any agency that establishes rates for health  
1464 care services or HMO's located in the geographic area of the  
1465 proposal.

1466           (b) "Certificate of need" means a written order of the  
1467 State Department of Health setting forth the affirmative finding  
1468 that a proposal in prescribed application form, sufficiently  
1469 satisfies the plans, standards and criteria prescribed for such  
1470 service or other project by Section 41-7-171 et seq., and by rules  
1471 and regulations promulgated thereunder by the State Department of  
1472 Health.

1473           (c) (i) "Capital expenditure," when pertaining to  
1474 defined major medical equipment, shall mean an expenditure which,  
1475 under generally accepted accounting principles consistently  
1476 applied, is not properly chargeable as an expense of operation and  
1477 maintenance and which exceeds One Million Five Hundred Thousand  
1478 Dollars (\$1,500,000.00).

1479           (ii) "Capital expenditure," when pertaining to  
1480 other than major medical equipment, shall mean any expenditure



1481 which under generally accepted accounting principles consistently  
1482 applied is not properly chargeable as an expense of operation and  
1483 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

1484 (iii) A "capital expenditure" shall include the  
1485 acquisition, whether by lease, sufferance, gift, devise, legacy,  
1486 settlement of a trust or other means, of any facility or part  
1487 thereof, or equipment for a facility, the expenditure for which  
1488 would have been considered a capital expenditure if acquired by  
1489 purchase. Transactions which are separated in time but are  
1490 planned to be undertaken within twelve (12) months of each other  
1491 and are components of an overall plan for meeting patient care  
1492 objectives shall, for purposes of this definition, be viewed in  
1493 their entirety without regard to their timing.

1494 (iv) In those instances where a health care  
1495 facility or other provider of health services proposes to provide  
1496 a service in which the capital expenditure for major medical  
1497 equipment or other than major medical equipment or a combination  
1498 of the two (2) may have been split between separate parties, the  
1499 total capital expenditure required to provide the proposed service  
1500 shall be considered in determining the necessity of certificate of  
1501 need review and in determining the appropriate certificate of need  
1502 review fee to be paid. The capital expenditure associated with  
1503 facilities and equipment to provide services in Mississippi shall  
1504 be considered regardless of where the capital expenditure was  
1505 made, in state or out of state, and regardless of the domicile of  
1506 the party making the capital expenditure, in state or out of  
1507 state.

1508 (d) "Change of ownership" includes, but is not limited  
1509 to, inter vivos gifts, purchases, transfers, lease arrangements,  
1510 cash and/or stock transactions or other comparable arrangements  
1511 whenever any person or entity acquires or controls a majority  
1512 interest of the facility or service. Changes of ownership from  
1513 partnerships, single proprietorships or corporations to another



1514 form of ownership are specifically included. However, "change of  
1515 ownership" shall not include any inherited interest acquired as a  
1516 result of a testamentary instrument or under the laws of descent  
1517 and distribution of the State of Mississippi.

1518 (e) "Commencement of construction" means that all of  
1519 the following have been completed with respect to a proposal or  
1520 project proposing construction, renovating, remodeling or  
1521 alteration:

1522 (i) A legally binding written contract has been  
1523 consummated by the proponent and a lawfully licensed contractor to  
1524 construct and/or complete the intent of the proposal within a  
1525 specified period of time in accordance with final architectural  
1526 plans which have been approved by the licensing authority of the  
1527 State Department of Health;

1528 (ii) Any and all permits and/or approvals deemed  
1529 lawfully necessary by all authorities with responsibility for such  
1530 have been secured; and

1531 (iii) Actual bona fide undertaking of the subject  
1532 proposal has commenced, and a progress payment of at least one  
1533 percent (1%) of the total cost price of the contract has been paid  
1534 to the contractor by the proponent, and the requirements of this  
1535 paragraph (e) have been certified to in writing by the State  
1536 Department of Health.

1537 Force account expenditures, such as deposits, securities,  
1538 bonds, et cetera, may, in the discretion of the State Department  
1539 of Health, be excluded from any or all of the provisions of  
1540 defined commencement of construction.

1541 (f) "Consumer" means an individual who is not a  
1542 provider of health care as defined in paragraph (q) of this  
1543 section.

1544 (g) "Develop," when used in connection with health  
1545 services, means to undertake those activities which, on their  
1546 completion, will result in the offering of a new institutional



1547 health service or the incurring of a financial obligation as  
1548 defined under applicable state law in relation to the offering of  
1549 such services.

1550 (h) "Health care facility" includes hospitals,  
1551 psychiatric hospitals, chemical dependency hospitals, skilled  
1552 nursing facilities, end-stage renal disease (ESRD) facilities,  
1553 including freestanding hemodialysis units, intermediate care  
1554 facilities, ambulatory surgical facilities, intermediate care  
1555 facilities for the mentally retarded, home health agencies,  
1556 psychiatric residential treatment facilities, pediatric skilled  
1557 nursing facilities, long-term care hospitals, comprehensive  
1558 medical rehabilitation facilities, including facilities owned or  
1559 operated by the state or a political subdivision or  
1560 instrumentality of the state, but does not include Christian  
1561 Science sanatoriums operated or listed and certified by the First  
1562 Church of Christ, Scientist, Boston, Massachusetts. This  
1563 definition shall not apply to facilities for the private practice,  
1564 either independently or by incorporated medical groups, of  
1565 physicians, dentists or health care professionals except where  
1566 such facilities are an integral part of an institutional health  
1567 service. The various health care facilities listed in this  
1568 paragraph shall be defined as follows:

1569 (i) "Hospital" means an institution which is  
1570 primarily engaged in providing to inpatients, by or under the  
1571 supervision of physicians, diagnostic services and therapeutic  
1572 services for medical diagnosis, treatment and care of injured,  
1573 disabled or sick persons, or rehabilitation services for the  
1574 rehabilitation of injured, disabled or sick persons. Such term  
1575 does not include psychiatric hospitals.

1576 (ii) "Psychiatric hospital" means an institution  
1577 which is primarily engaged in providing to inpatients, by or under  
1578 the supervision of a physician, psychiatric services for the  
1579 diagnosis and treatment of \* \* \* persons with mental illness.





1580 (iii) "Chemical dependency hospital" means an  
1581 institution which is primarily engaged in providing to inpatients,  
1582 by or under the supervision of a physician, medical and related  
1583 services for the diagnosis and treatment of chemical dependency  
1584 such as alcohol and drug abuse.

1585 (iv) "Skilled nursing facility" means an  
1586 institution or a distinct part of an institution which is  
1587 primarily engaged in providing to inpatients skilled nursing care  
1588 and related services for patients who require medical or nursing  
1589 care or rehabilitation services for the rehabilitation of injured,  
1590 disabled or sick persons.

1591 (v) "End-stage renal disease (ESRD) facilities"  
1592 means kidney disease treatment centers, which includes  
1593 freestanding hemodialysis units and limited care facilities. The  
1594 term "limited care facility" generally refers to an  
1595 off-hospital-premises facility, regardless of whether it is  
1596 provider or nonprovider operated, which is engaged primarily in  
1597 furnishing maintenance hemodialysis services to stabilized  
1598 patients.

1599 (vi) "Intermediate care facility" means an  
1600 institution which provides, on a regular basis, health-related  
1601 care and services to individuals who do not require the degree of  
1602 care and treatment which a hospital or skilled nursing facility is  
1603 designed to provide, but who, because of their mental or physical  
1604 condition, require health-related care and services (above the  
1605 level of room and board).

1606 (vii) "Ambulatory surgical facility" means a  
1607 facility primarily organized or established for the purpose of  
1608 performing surgery for outpatients and is a separate identifiable  
1609 legal entity from any other health care facility. Such term does  
1610 not include the offices of private physicians or dentists, whether  
1611 for individual or group practice, and does not include any  
1612 abortion facility as defined in Section 41-75-1(e).



1613 (viii) "Intermediate care facility for the  
1614 mentally retarded" means an intermediate care facility that  
1615 provides health or rehabilitative services in a planned program of  
1616 activities to persons with an intellectual disability, also  
1617 including, but not limited to, cerebral palsy and other conditions  
1618 covered by the Federal Developmentally Disabled Assistance and  
1619 Bill of Rights Act, Public Law 94-103.

1620 (ix) "Home health agency" means a public or  
1621 privately owned agency or organization, or a subdivision of such  
1622 an agency or organization, properly authorized to conduct business  
1623 in Mississippi, which is primarily engaged in providing to  
1624 individuals at the written direction of a licensed physician, in  
1625 the individual's place of residence, skilled nursing services  
1626 provided by or under the supervision of a registered nurse  
1627 licensed to practice in Mississippi, and one or more of the  
1628 following services or items:

- 1629 1. Physical, occupational or speech therapy;
- 1630 2. Medical social services;
- 1631 3. Part-time or intermittent services of a  
1632 home health aide;
- 1633 4. Other services as approved by the  
1634 licensing agency for home health agencies;
- 1635 5. Medical supplies, other than drugs and  
1636 biologicals, and the use of medical appliances; or
- 1637 6. Medical services provided by an intern or  
1638 resident-in-training at a hospital under a teaching program of  
1639 such hospital.

1640 Further, all skilled nursing services and those services  
1641 listed in items 1 through 4 of this subparagraph (ix) must be  
1642 provided directly by the licensed home health agency. For  
1643 purposes of this subparagraph, "directly" means either through an  
1644 agency employee or by an arrangement with another individual not  
1645 defined as a health care facility.



1646           This subparagraph (ix) shall not apply to health care  
1647 facilities which had contracts for the above services with a home  
1648 health agency on January 1, 1990.

1649                   (x) "Psychiatric residential treatment facility"  
1650 means any nonhospital establishment with permanent licensed  
1651 facilities which provides a twenty-four-hour program of care by  
1652 qualified therapists, including, but not limited to, duly licensed  
1653 mental health professionals, psychiatrists, psychologists,  
1654 psychotherapists and licensed certified social workers, for  
1655 emotionally disturbed children and adolescents referred to such  
1656 facility by a court, local school district or by the Department of  
1657 Human Services, who are not in an acute phase of illness requiring  
1658 the services of a psychiatric hospital, and are in need of such  
1659 restorative treatment services. For purposes of this paragraph,  
1660 the term "emotionally disturbed" means a condition exhibiting one  
1661 or more of the following characteristics over a long period of  
1662 time and to a marked degree, which adversely affects educational  
1663 performance:

- 1664                               1. An inability to learn which cannot be  
1665 explained by intellectual, sensory or health factors;
- 1666                               2. An inability to build or maintain  
1667 satisfactory relationships with peers and teachers;
- 1668                               3. Inappropriate types of behavior or  
1669 feelings under normal circumstances;
- 1670                               4. A general pervasive mood of unhappiness or  
1671 depression; or
- 1672                               5. A tendency to develop physical symptoms or  
1673 fears associated with personal or school problems. An  
1674 establishment furnishing primarily domiciliary care is not within  
1675 this definition.

1676                   (xi) "Pediatric skilled nursing facility" means an  
1677 institution or a distinct part of an institution that is primarily  
1678 engaged in providing to inpatients skilled nursing care and



1679 related services for persons under twenty-one (21) years of age  
1680 who require medical or nursing care or rehabilitation services for  
1681 the rehabilitation of injured, disabled or sick persons.

1682 (xii) "Long-term care hospital" means a  
1683 freestanding, Medicare-certified hospital that has an average  
1684 length of inpatient stay greater than twenty-five (25) days, which  
1685 is primarily engaged in providing chronic or long-term medical  
1686 care to patients who do not require more than three (3) hours of  
1687 rehabilitation or comprehensive rehabilitation per day, and has a  
1688 transfer agreement with an acute care medical center and a  
1689 comprehensive medical rehabilitation facility. Long-term care  
1690 hospitals shall not use rehabilitation, comprehensive medical  
1691 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
1692 nursing home, skilled nursing facility, or sub-acute care facility  
1693 in association with its name.

1694 (xiii) "Comprehensive medical rehabilitation  
1695 facility" means a hospital or hospital unit that is licensed  
1696 and/or certified as a comprehensive medical rehabilitation  
1697 facility which provides specialized programs that are accredited  
1698 by the Commission on Accreditation of Rehabilitation Facilities  
1699 and supervised by a physician board certified or board eligible in  
1700 Physiatry or other doctor of medicine or osteopathy with at least  
1701 two (2) years of training in the medical direction of a  
1702 comprehensive rehabilitation program that:

1703 1. Includes evaluation and treatment of  
1704 individuals with physical disabilities;

1705 2. Emphasizes education and training of  
1706 individuals with disabilities;

1707 3. Incorporates at least the following core  
1708 disciplines:

1709 (i) Physical Therapy;

1710 (ii) Occupational Therapy;

1711 (iii) Speech and Language Therapy;



- 1712 (iv) Rehabilitation Nursing; and  
1713 4. Incorporates at least three (3) of the  
1714 following disciplines:  
1715 (i) Psychology;  
1716 (ii) Audiology;  
1717 (iii) Respiratory Therapy;  
1718 (iv) Therapeutic Recreation;  
1719 (v) Orthotics;  
1720 (vi) Prosthetics;  
1721 (vii) Special Education;  
1722 (viii) Vocational Rehabilitation;  
1723 (ix) Psychotherapy;  
1724 (x) Social Work;  
1725 (xi) Rehabilitation Engineering.

1726 These specialized programs include, but are not limited to:  
1727 spinal cord injury programs, head injury programs and infant and  
1728 early childhood development programs.

1729 (i) "Health maintenance organization" or "HMO" means a  
1730 public or private organization organized under the laws of this  
1731 state or the federal government which:

1732 (i) Provides or otherwise makes available to  
1733 enrolled participants health care services, including  
1734 substantially the following basic health care services: usual  
1735 physician services, hospitalization, laboratory, x-ray, emergency  
1736 and preventive services, and out-of-area coverage;

1737 (ii) Is compensated (except for copayments) for  
1738 the provision of the basic health care services listed in  
1739 subparagraph (i) of this paragraph to enrolled participants on a  
1740 predetermined basis; and

1741 (iii) Provides physician services primarily:

1742 1. Directly through physicians who are either  
1743 employees or partners of such organization; or



1744                   2. Through arrangements with individual  
1745 physicians or one or more groups of physicians (organized on a  
1746 group practice or individual practice basis).

1747                   (j) "Health service area" means a geographic area of  
1748 the state designated in the State Health Plan as the area to be  
1749 used in planning for specified health facilities and services and  
1750 to be used when considering certificate of need applications to  
1751 provide health facilities and services.

1752                   (k) "Health services" means clinically related (i.e.,  
1753 diagnostic, treatment or rehabilitative) services and includes  
1754 alcohol, drug abuse, mental health and home health care services.

1755                   (l) "Institutional health services" shall mean health  
1756 services provided in or through health care facilities and shall  
1757 include the entities in or through which such services are  
1758 provided.

1759                   (m) "Major medical equipment" means medical equipment  
1760 designed for providing medical or any health-related service which  
1761 costs in excess of One Million Five Hundred Thousand Dollars  
1762 (\$1,500,000.00). However, this definition shall not be applicable  
1763 to clinical laboratories if they are determined by the State  
1764 Department of Health to be independent of any physician's office,  
1765 hospital or other health care facility or otherwise not so defined  
1766 by federal or state law, or rules and regulations promulgated  
1767 thereunder.

1768                   (n) "State Department of Health" shall mean the state  
1769 agency created under Section 41-3-15, which shall be considered to  
1770 be the State Health Planning and Development Agency, as defined in  
1771 paragraph (t) of this section.

1772                   (o) "Offer," when used in connection with health  
1773 services, means that it has been determined by the State  
1774 Department of Health that the health care facility is capable of  
1775 providing specified health services.



1776 (p) "Person" means an individual, a trust or estate,  
1777 partnership, corporation (including associations, joint-stock  
1778 companies and insurance companies), the state or a political  
1779 subdivision or instrumentality of the state.

1780 (q) "Provider" shall mean any person who is a provider  
1781 or representative of a provider of health care services requiring  
1782 a certificate of need under Section 41-7-171 et seq., or who has  
1783 any financial or indirect interest in any provider of services.

1784 (r) "Secretary" means the Secretary of Health and Human  
1785 Services, and any officer or employee of the Department of Health  
1786 and Human Services to whom the authority involved has been  
1787 delegated.

1788 (s) "State Health Plan" means the sole and official  
1789 statewide health plan for Mississippi which identifies priority  
1790 state health needs and establishes standards and criteria for  
1791 health-related activities which require certificate of need review  
1792 in compliance with Section 41-7-191.

1793 (t) "State Health Planning and Development Agency"  
1794 means the agency of state government designated to perform health  
1795 planning and resource development programs for the State of  
1796 Mississippi.

1797 **SECTION 25.** Section 41-19-1, Mississippi Code of 1972, is  
1798 amended as follows:

1799 41-19-1. The purpose of Sections 41-19-1 through 41-19-17 is  
1800 to create, construct, equip and maintain a center, to be located  
1801 in North Mississippi, for the care and treatment of persons with  
1802 an intellectual disability, which shall be known as the North  
1803 Mississippi Regional Center.

1804 **SECTION 26.** Section 41-19-7, Mississippi Code of 1972, is  
1805 amended as follows:

1806 41-19-7. The center shall be administered by the State Board  
1807 of Mental Health. Provisions relating to the admission and care  
1808 of residents and patients provided for hereinafter shall apply to



1809 all institutions for persons with an intellectual disability  
1810 administered by the board.

1811 **SECTION 27.** Section 41-19-15, Mississippi Code of 1972, is  
1812 amended as follows:

1813 41-19-15. Any person who (1) under the provisions of Section  
1814 41-19-11, knowingly and unlawfully or improperly causes a person  
1815 to be adjudged a person with an intellectual disability, (2)  
1816 procures the escape of a legally committed resident or knowingly  
1817 conceals an escaped legally committed resident of the center, or  
1818 (3) unlawfully brings any firearm, deadly weapon or explosive into  
1819 the center or its grounds, or passes any thereof to resident,  
1820 employee or officer of the center, is guilty of a misdemeanor and,  
1821 upon conviction, shall be punished by a fine of not less than  
1822 Fifty Dollars (\$50.00), nor more than Two Hundred Dollars  
1823 (\$200.00), imprisonment for not less than six (6) months, or both.

1824 **SECTION 28.** Section 41-19-17, Mississippi Code of 1972, is  
1825 amended as follows:

1826 41-19-17. The North Mississippi Regional Center is \* \* \*  
1827 designated as a state agency for carrying out the purposes of any  
1828 act of the Congress of the United States of America, now existing  
1829 or at any time hereafter enacted, pertaining to intellectual  
1830 disabilities.

1831 **SECTION 29.** Section 41-19-31, Mississippi Code of 1972, is  
1832 amended as follows:

1833 41-19-31. For the purpose of authorizing the establishment  
1834 of mental illness and intellectual disability facilities and  
1835 services in the State of Mississippi, the boards of supervisors of  
1836 one or more counties are \* \* \* authorized to act singularly or as  
1837 a group in the selection of a regional district by spreading upon  
1838 their minutes by resolution such designation.

1839 **SECTION 30.** Section 41-19-33, Mississippi Code of 1972, is  
1840 amended as follows:





1841           41-19-33. (1) Each region so designated or established  
1842 under Section 41-19-31 shall establish a regional commission to be  
1843 composed of members appointed by the boards of supervisors of the  
1844 various counties in the region. It shall be the duty of such  
1845 regional commission to administer mental health/intellectual  
1846 disability programs certified by the State Board of Mental Health.  
1847 In addition, once designated and established as provided  
1848 hereinabove, a regional commission shall have the following  
1849 authority and shall pursue and promote the following general  
1850 purposes:

1851           (a) To establish, own, lease, acquire, construct,  
1852 build, operate and maintain mental illness, mental health,  
1853 intellectual disability, alcoholism and general rehabilitative  
1854 facilities and services designed to serve the needs of the people  
1855 of the region so designated; provided that the services supplied  
1856 by the regional commissions shall include those services  
1857 determined by the Department of Mental Health to be necessary and  
1858 may include, in addition to the above, services for persons with  
1859 developmental and learning disabilities; for persons suffering  
1860 from narcotic addiction and problems of drug abuse and drug  
1861 dependence; and for the aging as designated and certified by the  
1862 Department of Mental Health.

1863           (b) To provide facilities and services for the  
1864 prevention of mental illness, mental disorders, developmental and  
1865 learning disabilities, alcoholism, narcotic addiction, drug abuse,  
1866 drug dependence and other related handicaps or problems (including  
1867 the problems of the aging) among the people of the region so  
1868 designated, and for the rehabilitation of persons suffering from  
1869 such illnesses, disorders, handicaps or problems as designated and  
1870 certified by the Department of Mental Health.

1871           (c) To promote increased understanding of the problems  
1872 of mental illness, intellectual disabilities, alcoholism,  
1873 developmental and learning disabilities, narcotic addiction, drug



1874 abuse and drug dependence and other related problems (including  
1875 the problems of the aging) by the people of the region, and also  
1876 to promote increased understanding of the purposes and methods of  
1877 the rehabilitation of persons suffering from such illnesses,  
1878 disorders, handicaps or problems as designated and certified by  
1879 the Department of Mental Health.

1880 (d) To enter into contracts and to make such other  
1881 arrangements as may be necessary, from time to time, with the  
1882 United States government, the government of the State of  
1883 Mississippi and such other agencies or governmental bodies as may  
1884 be approved by and acceptable to the regional commission for the  
1885 purpose of establishing, funding, constructing, operating and  
1886 maintaining facilities and services for the care, treatment and  
1887 rehabilitation of persons suffering from mental illness, an  
1888 intellectual disability, alcoholism, developmental and learning  
1889 disabilities, narcotic addiction, drug abuse, drug dependence and  
1890 other illnesses, disorders, handicaps and problems (including the  
1891 problems of the aging) as designated and certified by the  
1892 Department of Mental Health.

1893 (e) To enter into contracts and make such other  
1894 arrangements as may be necessary with any and all private  
1895 businesses, corporations, partnerships, proprietorships or other  
1896 private agencies, whether organized for profit or otherwise, as  
1897 may be approved by and acceptable to the regional commission for  
1898 the purpose of establishing, funding, constructing, operating and  
1899 maintaining facilities and services for the care, treatment and  
1900 rehabilitation of persons suffering from mental illness, an  
1901 intellectual disability, alcoholism, developmental and learning  
1902 disabilities, narcotic addiction, drug abuse, drug dependence and  
1903 other illnesses, disorders, handicaps and problems (including the  
1904 problems of the aging) relating to minimum services established by  
1905 the Department of Mental Health.



1906 (f) To promote the general mental health of the people  
1907 of the region.

1908 (g) To pay the administrative costs of the operation of  
1909 the regional commissions, including per diem for the members of  
1910 the commission and its employees, attorney's fees, if and when  
1911 such are required in the opinion of the commission, and such other  
1912 expenses of the commission as may be necessary. The Department of  
1913 Mental Health standards and audit rules shall determine what  
1914 administrative cost figures shall consist of for the purposes of  
1915 this paragraph. Each regional commission shall submit a cost  
1916 report annually to the Department of Mental Health in accordance  
1917 with guidelines promulgated by the department.

1918 (h) To employ and compensate any personnel that may be  
1919 necessary to effectively carry out the programs and services  
1920 established under the provisions of the aforesaid act, provided  
1921 such person meets the standards established by the Department of  
1922 Mental Health.

1923 (i) To acquire whatever hazard, casualty or workers'  
1924 compensation insurance that may be necessary for any property,  
1925 real or personal, owned, leased or rented by the commissions, or  
1926 any employees or personnel hired by the \* \* \* commissions.

1927 (j) To acquire professional liability insurance on all  
1928 employees as may be deemed necessary and proper by the commission,  
1929 and to pay, out of the funds of the commission, all premiums due  
1930 and payable on account thereof.

1931 (k) To provide and finance within their own facilities,  
1932 or through agreements or contracts with other local, state or  
1933 federal agencies or institutions, nonprofit corporations, or  
1934 political subdivisions or representatives thereof, programs and  
1935 services for persons with mental illness, including treatment for  
1936 alcoholics, and promulgating and administering of programs to  
1937 combat drug abuse and programs for services for persons with an  
1938 intellectual disability.



1939           (1) To borrow money from private lending institutions  
1940 in order to promote any of the foregoing purposes. A commission  
1941 may pledge collateral, including real estate, to secure the  
1942 repayment of money borrowed under the authority of this paragraph.  
1943 Any such borrowing undertaken by a commission shall be on terms  
1944 and conditions that are prudent in the sound judgment of the  
1945 members of the commission, and the interest on any such loan shall  
1946 not exceed the amount specified in Section 75-17-105. Any money  
1947 borrowed, debts incurred or other obligations undertaken by a  
1948 commission, regardless of whether borrowed, incurred or undertaken  
1949 before or after the effective date of this act, shall be valid,  
1950 binding and enforceable if it or they are borrowed, incurred or  
1951 undertaken for any purpose specified in this section and otherwise  
1952 conform to the requirements of this paragraph.

1953           (m) To acquire, own and dispose of real and personal  
1954 property. Any real and personal property paid for with state  
1955 and/or county appropriated funds must have the written approval of  
1956 the Department of Mental Health and/or the county board of  
1957 supervisors, depending on the original source of funding, before  
1958 being disposed of under this paragraph.

1959           (n) To enter into managed care contracts and make such  
1960 other arrangements as may be deemed necessary or appropriate by  
1961 the regional commission in order to participate in any managed  
1962 care program. Any such contract or arrangement affecting more  
1963 than one (1) region must have prior written approval of the  
1964 Department of Mental Health before being initiated and annually  
1965 thereafter.

1966           (o) To provide facilities and services on a discounted  
1967 or capitated basis. Any such action when affecting more than one  
1968 (1) region must have prior written approval of the Department of  
1969 Mental Health before being initiated and annually thereafter.

1970           (p) To enter into contracts, agreements or other  
1971 arrangements with any person, payor, provider or other entity,



1972 under which the regional commission assumes financial risk for the  
1973 provision or delivery of any services, when deemed to be necessary  
1974 or appropriate by the regional commission. Any action under this  
1975 paragraph affecting more than one (1) region must have prior  
1976 written approval of the Department of Mental Health before being  
1977 initiated and annually thereafter.

1978 (q) To provide direct or indirect funding, grants,  
1979 financial support and assistance for any health maintenance  
1980 organization, preferred provider organization or other managed  
1981 care entity or contractor, where such organization, entity or  
1982 contractor is operated on a nonprofit basis. Any action under  
1983 this paragraph affecting more than one (1) region must have prior  
1984 written approval of the Department of Mental Health before being  
1985 initiated and annually thereafter.

1986 (r) To form, establish, operate, and/or be a member of  
1987 or participant in, either individually or with one or more other  
1988 regional commissions, any managed care entity as defined in  
1989 Section 83-41-403(c). Any action under this paragraph affecting  
1990 more than one (1) region must have prior written approval of the  
1991 Department of Mental Health before being initiated and annually  
1992 thereafter.

1993 (s) To meet at least annually with the board of  
1994 supervisors of each county in its region for the purpose of  
1995 presenting its total annual budget and total mental  
1996 health/intellectual disability services system.

1997 (t) To provide alternative living arrangements for  
1998 persons with serious mental illness, including, but not limited  
1999 to, group homes for persons with chronic mental illness.

2000 (u) To make purchases and enter into contracts for  
2001 purchasing in compliance with the public purchasing law, Sections  
2002 31-7-12 and 31-7-13, with compliance with the public purchasing  
2003 law subject to audit by the State Department of Audit.



2004                   (v) To insure that all available funds are used for the  
2005 benefit of persons with mental illness, persons with an  
2006 intellectual disability, substance abusers and persons with  
2007 developmental disabilities with maximum efficiency and minimum  
2008 administrative cost. At any time a regional commission, and/or  
2009 other related organization whatever it may be, accumulates surplus  
2010 funds in excess of one-half (1/2) of its annual operating budget,  
2011 the entity must submit a plan to the Department of Mental Health  
2012 stating the capital improvements or other projects that require  
2013 such surplus accumulation. If the required plan is not submitted  
2014 within forty-five (45) days of the end of the applicable fiscal  
2015 year, the Department of Mental Health shall withhold all state  
2016 appropriated funds from such regional commission until such time  
2017 as the capital improvement plan is submitted. If the submitted  
2018 capital improvement plan is not accepted by the department,  
2019 the \* \* \* surplus funds shall be expended by the regional  
2020 commission in the local mental health region on group homes for  
2021 persons with mental illness, persons with an intellectual  
2022 disability, substance abusers, children or other mental  
2023 health/intellectual disability services approved by the Department  
2024 of Mental Health.

2025                   (w) Notwithstanding any other provision of law, to  
2026 fingerprint and perform a criminal history record check on every  
2027 employee or volunteer. Every employee or volunteer shall provide  
2028 a valid current social security number and/or driver's license  
2029 number that will be furnished to conduct the criminal history  
2030 record check. If no disqualifying record is identified at the  
2031 state level, fingerprints shall be forwarded to the Federal Bureau  
2032 of Investigation for a national criminal history record check.

2033                   (x) In general to take any action which will promote,  
2034 either directly or indirectly, any and all of the foregoing  
2035 purposes.



2036 (2) The types of services established by the State  
2037 Department of Mental Health that must be provided by the regional  
2038 mental health/intellectual disability centers for certification by  
2039 the department, and the minimum levels and standards for those  
2040 services established by the department, shall be provided by the  
2041 regional mental health/intellectual disability centers to children  
2042 when such services are appropriate for children, in the  
2043 determination of the department.

2044 **SECTION 31.** Section 41-19-37, Mississippi Code of 1972, is  
2045 amended as follows:

2046 41-19-37. The location of any mental illness and  
2047 intellectual disability facilities or services in any of the  
2048 regions shall be determined by the regional commission. However,  
2049 such location and such services shall not conflict with the state  
2050 plan for services or facilities developed by the Department of  
2051 Mental Health.

2052 **SECTION 32.** Section 41-19-38, Mississippi Code of 1972, is  
2053 amended as follows:

2054 41-19-38. Any regional mental health or intellectual  
2055 disability commission established according to the provisions of  
2056 Section 41-19-31 et seq. shall not construct or operate any  
2057 facility in an area in violation of any local zoning ordinances or  
2058 regulations.

2059 **SECTION 33.** Section 41-19-39, Mississippi Code of 1972, is  
2060 amended as follows:

2061 41-19-39. After a plan for mental illness and intellectual  
2062 disability facilities or services has been submitted by any  
2063 regional commission and approved by the Department of Mental  
2064 Health, the \* \* \* regional commission may request the boards of  
2065 supervisors of the various counties in the region to levy a  
2066 special tax for the construction, operation and maintenance of  
2067 those mental illness and intellectual disability facilities or  
2068 services in such region. The boards of supervisors of the



2069 counties desiring to participate in the program in each region  
2070 are \* \* \* authorized to use any available funds and, if necessary,  
2071 to levy a special tax, not to exceed two (2) mills, for the  
2072 construction, operation and maintenance of the \* \* \* mental  
2073 illness and intellectual disability facilities or services  
2074 provided for and authorized in Sections 41-19-31 through 41-19-39.

2075 The governing authority of any municipality in the region  
2076 may, upon resolution spread upon its minutes, make a voluntary  
2077 contribution for the construction, operation or maintenance of the  
2078 mental illness and intellectual disability facilities in the  
2079 region in which the municipality lies.

2080 In addition to the purposes for which the county tax levies  
2081 and municipal contributions may be used as authorized under this  
2082 section, the county tax levies and municipal contributions may  
2083 also be used for repayment of any loans from private lending  
2084 institutions made by the commission under the authority of Section  
2085 41-19-33(1).

2086 **SECTION 34.** Section 41-19-41, Mississippi Code of 1972, is  
2087 amended as follows:

2088 41-19-41. Any regional mental health or intellectual  
2089 disability facility or service established and operated according  
2090 to the provisions set forth in Sections 41-19-31 through 41-19-39,  
2091 is eligible to admit and treat patients committed by either the  
2092 chancellors or chancery clerks in the same manner as is provided  
2093 by the laws of Mississippi for commitment to the state mental  
2094 institutions.

2095 **SECTION 35.** Section 41-19-43, Mississippi Code of 1972, is  
2096 amended as follows:

2097 41-19-43. Whenever it is necessary to commit and transport  
2098 any eligible patient to a regional mental health or intellectual  
2099 disability facility for treatment or care, the chancery clerk and  
2100 sheriff shall be entitled to expenses as provided for by the laws





2101 of Mississippi for commitment and transportation to state mental  
2102 institutions.

2103         **SECTION 36.** Section 41-19-91, Mississippi Code of 1972, is  
2104 amended as follows:

2105         41-19-91. (1) Any board of supervisors, mayor and board of  
2106 selectmen of any city in which Mississippi State Highway No. 50  
2107 and United States Highway No. 45 Alternate intersect, are \* \* \*  
2108 authorized and empowered, in their discretion, to contribute a sum  
2109 not to exceed Ten Thousand Dollars (\$10,000.00) each to a  
2110 nonprofit corporation, the purpose of which is to develop and  
2111 operate programs for \* \* \* children with an intellectual  
2112 disability. The contribution may be made from the general fund of  
2113 such county and/or city wherein funds may be available.

2114         (2) To acquire the funds in which to make such contribution,  
2115 the board of supervisors of such county and/or mayor and board of  
2116 selectmen of such city are \* \* \* authorized and empowered, in its  
2117 discretion, to set aside, appropriate and expend monies from the  
2118 general fund.

2119         **SECTION 37.** Section 41-19-103, Mississippi Code of 1972, is  
2120 amended as follows:

2121         41-19-103. The Ellisville State School established by  
2122 Chapter 210, Laws of Mississippi 1920, is recognized as now  
2123 existing and shall hereafter be known under the name of Ellisville  
2124 State School for the care and treatment of persons with an  
2125 intellectual disability. The school shall have the power to  
2126 receive and hold property, real, personal and mixed, as a body  
2127 corporate. The school shall be under the direction and control of  
2128 the State Board of Mental Health.

2129         **SECTION 38.** Section 41-19-116, Mississippi Code of 1972, is  
2130 amended as follows:

2131         41-19-116. Any person who (a) knowingly and unlawfully or  
2132 improperly causes a person to be adjudged to be a person with an  
2133 intellectual disability, (b) procures the escape of a legally



2134 committed resident or knowingly conceals an escaped legally  
2135 committed resident of Ellisville State School, or (c) unlawfully  
2136 brings any firearm, deadly weapon or explosive into the school or  
2137 its grounds, or passes any thereof to a resident, employee or  
2138 officer of the school, is guilty of a misdemeanor and, upon  
2139 conviction, shall be punished by a fine of not less than Fifty  
2140 Dollars (\$50.00), nor more than Two Hundred Dollars (\$200.00),  
2141 imprisonment for not less than six (6) months, or both.

2142       **SECTION 39.** Section 41-19-118, Mississippi Code of 1972, is  
2143 amended as follows:

2144       41-19-118. Ellisville State School is designated as a state  
2145 agency for carrying out the purposes of any act of the Congress of  
2146 the United States, now existing or at any time hereafter enacted,  
2147 pertaining to intellectual disabilities.

2148       **SECTION 40.** Section 41-19-141, Mississippi Code of 1972, is  
2149 amended as follows:

2150       41-19-141. The purpose of Sections 41-19-141 through  
2151 41-19-157 is to create, construct, equip and maintain a center to  
2152 be located in South Mississippi for the care and treatment of  
2153 persons with an intellectual disability, which shall be known as  
2154 the South Mississippi Regional Center.

2155       **SECTION 41.** Section 41-19-147, Mississippi Code of 1972, is  
2156 amended as follows:

2157       41-19-147. The center shall be administered by the board of  
2158 trustees of mental institutions, as provided for in Sections  
2159 41-5-31 through 41-5-55, inclusive, and all subsequent laws  
2160 enacted which define the powers and authority of the board.  
2161 Provisions relating to the admission and care of residents and  
2162 patients provided for hereinafter shall apply to all institutions  
2163 for persons with an intellectual disability administered by the  
2164 board, unless they are in conflict with the provisions of the  
2165 above-mentioned laws.



2166           **SECTION 42.** Section 41-19-155, Mississippi Code of 1972, is  
2167 amended as follows:

2168           41-19-155. Any person who: (1) under the provisions of  
2169 Sections 41-19-141 through 41-19-157 knowingly and unlawfully or  
2170 improperly causes a person to be adjudged to be a person with an  
2171 intellectual disability; (2) procures the escape of a legally  
2172 committed resident or knowingly conceals an escaped legally  
2173 committed resident of the center; or (3) unlawfully brings any  
2174 firearm, deadly weapon or explosive into the center or its grounds  
2175 or passes any thereof to a resident, employee or officer of the  
2176 center is guilty of a misdemeanor and, upon conviction, shall be  
2177 punished by a fine of not more than Two Hundred Dollars (\$200.00),  
2178 imprisonment for not more than one (1) year, or both.

2179           **SECTION 43.** Section 41-19-157, Mississippi Code of 1972, is  
2180 amended as follows:

2181           41-19-157. The South Mississippi Regional Center is \* \* \*  
2182 designated as a state agency for carrying out the purposes of any  
2183 act of the Congress of the United States of America now existing  
2184 or at any time hereafter enacted pertaining to intellectual  
2185 disabilities.

2186           **SECTION 44.** Section 41-19-201, Mississippi Code of 1972, is  
2187 amended as follows:

2188           41-19-201. The purpose of Sections 41-19-201 through  
2189 41-19-213 is to create, construct, equip and maintain a center  
2190 located in Central Mississippi for the care and treatment of  
2191 persons with an intellectual disability, which shall be known as  
2192 the Boswell Regional Center. Sections 41-19-201 through 41-19-213  
2193 shall not supersede Section 41-5-44, but shall be supplemental to  
2194 that section.

2195           **SECTION 45.** Section 41-19-203, Mississippi Code of 1972, is  
2196 amended as follows:

2197           41-19-203. The center shall be located on the site of the  
2198 Tuberculosis Sanatorium of Mississippi.



2199 With funds provided by the Legislature, by direct  
2200 appropriation or authorized bond issue, with federal matching  
2201 funds, or with any other available funds, the state building  
2202 commission is \* \* \* authorized to construct and equip the  
2203 necessary residential and service buildings and other facilities  
2204 for the care and treatment of persons with an intellectual  
2205 disability. The general design of the center and all construction  
2206 plans shall be approved and recommended by the State Board of  
2207 Mental Health.

2208 The center shall be administered by the State Board of Mental  
2209 Health.

2210 **SECTION 46.** Section 41-19-205, Mississippi Code of 1972, is  
2211 amended as follows:

2212 41-19-205. A person may be deemed eligible for admission to  
2213 the center if:

2214 (a) His parents or guardian or person in loco parentis  
2215 has resided in the state not less than one (1) year prior to the  
2216 date of admission; and

2217 (b) He is at least five (5) years of age and has such  
2218 an intellectual disability that he is incapable of managing  
2219 himself or his affairs, or he has an intellectual disability to  
2220 the extent that special care, training and education provided at  
2221 the center will enable him to better function in society; or

2222 (c) He is committed to the center by the chancery court  
2223 in the manner hereinafter provided; or

2224 (d) He is under five (5) years of age and is approved  
2225 for admission by the board of mental health, upon the  
2226 recommendation of the director, because of having an exceptional  
2227 handicap.

2228 **SECTION 47.** Section 41-19-207, Mississippi Code of 1972, is  
2229 amended as follows:

2230 41-19-207. Admission of an eligible person to the center  
2231 shall be as follows:



2232           (a) The parents or guardian or person in loco parentis  
2233 of any person thought to have an intellectual disability may file  
2234 an application for admission to the center. Such application  
2235 shall be made on an official form approved or furnished by the  
2236 center. Within ten (10) days after the admission of the person to  
2237 the center, the director shall have him examined by a qualified  
2238 physician or psychologist or both. If he is found not to have an  
2239 intellectual disability, the parents, guardian or person in loco  
2240 parentis shall be required to take him from the center. The  
2241 results of the examination shall be entered upon the person's  
2242 record if he is found to have an intellectual disability and  
2243 eligible to remain at the center.

2244           (b) If any \* \* \* person with an intellectual disability  
2245 is afflicted to the extent that he needs care, supervision or  
2246 control, or to the extent that he is likely to become dangerous or  
2247 a menace if left at large, any relative or any citizen of the  
2248 State of Mississippi may make affidavit of such fact and shall  
2249 file such affidavit with the clerk of the chancery court of the  
2250 county of such person's residence or with the clerk of the  
2251 chancery court of any county in which such person might be found.  
2252 When such affidavit is received by the chancery clerk, he shall  
2253 follow the same procedure for commitment to the center as is  
2254 provided for in state law for the commitment of persons to the  
2255 state mental hospitals.

2256           (c) \* \* \* Persons with an intellectual disability may  
2257 be admitted to the center by the director for a time sufficient  
2258 for diagnosis, evaluation and training without formal commitment,  
2259 provided such person is referred by another state agency or  
2260 department. In such cases the person so admitted shall be subject  
2261 to all regulations governing the center for such time as he  
2262 remains.

2263           (d) The final determination of admission to the center  
2264 shall be the decision of the director of the center.



2265           **SECTION 48.** Section 41-19-211, Mississippi Code of 1972, is  
2266 amended as follows:

2267           41-19-211. Any person who (a) under the provisions of  
2268 Section 41-19-207, knowingly and unlawfully or improperly causes a  
2269 person to be adjudged to be a person with an intellectual  
2270 disability, (b) procures the escape of a legally committed  
2271 resident or knowingly conceals an escaped legally committed  
2272 resident of the center, or (c) unlawfully brings any firearm,  
2273 deadly weapon or explosive into the center or its grounds, or  
2274 passes any thereof to a resident, employee or officer of the  
2275 center, is guilty of a misdemeanor and, upon conviction, shall be  
2276 punished by a fine of not less than Fifty Dollars (\$50.00) nor  
2277 more than Two Hundred Dollars (\$200.00), imprisonment for not less  
2278 than six (6) months nor more than one (1) year, or both.

2279           **SECTION 49.** Section 41-19-213, Mississippi Code of 1972, is  
2280 amended as follows:

2281           41-19-213. The Boswell Regional Center is \* \* \* designated  
2282 as a state agency for carrying out the purposes of any act of the  
2283 Congress of the United States of America now existing or at any  
2284 time hereafter enacted pertaining to intellectual disabilities.

2285           **SECTION 50.** Section 41-19-231, Mississippi Code of 1972, is  
2286 amended as follows:

2287           41-19-231. The purpose of Sections 41-19-231 through  
2288 41-19-245 is to create, construct, equip and maintain a center  
2289 located in Central Mississippi for the care and treatment of  
2290 persons with an intellectual disability, which shall be known as  
2291 the Hudspeth Regional Center.

2292           **SECTION 51.** Section 41-19-235, Mississippi Code of 1972, is  
2293 amended as follows:

2294           41-19-235. With funds provided by the Legislature, by direct  
2295 appropriation or authorized bond issue, with federal matching  
2296 funds, or with any other available funds, the Department of  
2297 Finance and Administration is \* \* \* authorized to construct and



2298 equip the necessary residential and service buildings and other  
2299 facilities for the care and treatment of persons with an  
2300 intellectual disability. The general design of the center and all  
2301 construction plans shall be approved and recommended by the State  
2302 Board of Mental Health.

2303 The center shall be administered by the State Board of Mental  
2304 Health.

2305 **SECTION 52.** Section 41-19-237, Mississippi Code of 1972, is  
2306 amended as follows:

2307 41-19-237. A person may be deemed eligible for admission to  
2308 the center if:

2309 (a) His parents or guardian or person in loco parentis  
2310 has resided in the state not less than one (1) year before the  
2311 date of admission; and

2312 (b) He is at least five (5) years of age and has such  
2313 an intellectual disability that he is incapable of managing  
2314 himself or his affairs, or he has an intellectual disability to  
2315 the extent that special care, training and education provided at  
2316 the center will enable him to better function in society; or

2317 (c) He is committed to the center by the chancery court  
2318 in the manner hereinafter provided; or

2319 (d) He is under five (5) years of age and is approved  
2320 for admission by the Board of Mental Health, upon the  
2321 recommendation of the director, because of having an exceptional  
2322 handicap.

2323 **SECTION 53.** Section 41-19-239, Mississippi Code of 1972, is  
2324 amended as follows:

2325 41-19-239. Admission of eligible persons to the center shall  
2326 be as follows:

2327 (a) The parents or guardian or person in loco parentis  
2328 of any person thought to have an intellectual disability may file  
2329 an application for admission to the center. Such application  
2330 shall be made on an official form approved or furnished by the



2331 center. Within ten (10) days after the admission of the person to  
2332 the center, the director shall have him examined by a qualified  
2333 physician or psychologist or both. If he is found not to have an  
2334 intellectual disability, the parents, guardian or person in loco  
2335 parentis shall be required to take him from the center. The  
2336 results of the examination shall be entered upon the person's  
2337 record if he is found to have an intellectual disability and  
2338 eligible to remain at the center.

2339 (b) If any \* \* \* person with an intellectual disability  
2340 is afflicted to the extent that he needs care, supervision or  
2341 control, or to the extent that he is likely to become dangerous or  
2342 a menace if left at large, any relative or any citizen of the  
2343 State of Mississippi may make affidavit of such fact and shall  
2344 file such affidavit with the clerk of the chancery court of the  
2345 county of such person's residence or with the clerk of the  
2346 chancery court of any county in which such person might be found.  
2347 When such affidavit is received by the chancery clerk, he shall  
2348 follow the same procedure for commitment to the center as is  
2349 provided for in state law for the commitment of persons to the  
2350 state mental hospitals.

2351 (c) \* \* \* Persons with an intellectual disability may  
2352 be admitted to the center by the director for a time sufficient  
2353 for diagnosis, evaluation and training without formal commitment,  
2354 provided such person is referred by another state agency or  
2355 department. In such cases the person so admitted shall be subject  
2356 to all regulations governing the center for such time as he  
2357 remains.

2358 (d) The final determination of admission to the center  
2359 shall be the decision of the director of the center.

2360 **SECTION 54.** Section 41-19-243, Mississippi Code of 1972, is  
2361 amended as follows:

2362 41-19-243. Any person who (a) under the provisions of  
2363 Section 41-19-237, knowingly and unlawfully or improperly causes a





2364 person to be adjudged to be a person with an intellectual  
2365 disability, (b) procures the escape of a legally committed  
2366 resident or knowingly conceals an escaped legally committed  
2367 resident of the center, or (c) unlawfully brings any firearm,  
2368 deadly weapon or explosive into the center or its grounds, or  
2369 passes any thereof to a resident, employee or officer of the  
2370 center, is guilty of a misdemeanor and, upon conviction, shall be  
2371 punished by a fine of not less than Fifty Dollars (\$50.00) nor  
2372 more than Two Hundred Dollars (\$200.00), imprisonment for not less  
2373 than six (6) months nor more than one (1) year, or both.

2374 **SECTION 55.** Section 41-19-245, Mississippi Code of 1972, is  
2375 amended as follows:

2376 41-19-245. The Hudspeth Regional Center is \* \* \* designated  
2377 as a state agency for carrying out the purposes of any act of the  
2378 Congress of the United States of America now existing or at any  
2379 time hereafter enacted pertaining to intellectual disabilities.

2380 **SECTION 56.** Section 41-19-301, Mississippi Code of 1972, is  
2381 amended as follows:

2382 41-19-301. (1) The Mississippi Adolescent Center located in  
2383 Brookhaven, Mississippi, is recognized as now existing and shall  
2384 be for the care and treatment of persons with an intellectual  
2385 disability. The facility shall have the power to receive and hold  
2386 property, real, personal and mixed, as a body corporate. The  
2387 facility shall be under the direction and control of the State  
2388 Board of Mental Health.

2389 (2) Admissions shall be limited to \* \* \* adolescents with an  
2390 intellectual disability who have been committed to the center by a  
2391 youth court judge or chancellor in accordance with Section  
2392 41-21-109, or who are voluntarily admitted to the center.

2393 (3) The Mississippi Adolescent Center is authorized to  
2394 establish and operate a school to meet the educational needs of  
2395 its clients.



2396           (4) With funds provided by the Legislature, by direct  
2397 appropriation or authorized bond issue, with federal matching  
2398 funds, or with any other available funds, the Bureau of Building,  
2399 Grounds and Real Property Management may construct and equip the  
2400 necessary residential and service buildings and other facilities  
2401 to care for the residents of the Mississippi Adolescent Center.  
2402 The general design of the facility and all construction plans  
2403 shall be approved and recommended by the State Department of  
2404 Mental Health.

2405           (5) The Mississippi Adolescent Center shall be administered  
2406 by the State Board of Mental Health. Provisions relating to the  
2407 admission and care of residents at the facility shall be  
2408 promulgated by the board.

2409           (6) Persons admitted to the Mississippi Adolescent Center  
2410 shall be assessed support and maintenance costs in accordance with  
2411 the provisions of the state reimbursement laws as they apply to  
2412 other state institutions.

2413           (7) Any person who (a) knowingly and unlawfully or  
2414 improperly causes a person to be adjudged to be a person with an  
2415 intellectual disability, (b) procures the escape of a legally  
2416 committed resident or knowingly conceals an escaped legally  
2417 committed resident of the facility, or (c) unlawfully brings any  
2418 firearm, deadly weapon or explosive into the facility or its  
2419 grounds, or passes any thereof to a resident, employee or officer  
2420 of the school, is guilty of a misdemeanor and, upon conviction,  
2421 shall be punished by a fine of not less than Fifty Dollars  
2422 (\$50.00), or more than Two Hundred Dollars (\$200.00), imprisonment  
2423 for not less than six (6) months, or both.

2424           (8) The Mississippi Adolescent Center is designated as a  
2425 state agency for carrying out the purposes of any act of the  
2426 Congress of the United States, now existing or at any time  
2427 hereafter enacted, pertaining to intellectual disabilities.



2428           **SECTION 57.** Section 41-21-35, Mississippi Code of 1972, is  
2429 amended as follows:

2430           41-21-35. The rule as to the legal settlement of paupers  
2431 shall apply in cases of persons with mental illness and persons  
2432 with an intellectual disability.

2433           **SECTION 58.** Section 41-21-61, Mississippi Code of 1972, is  
2434 amended as follows:

2435           41-21-61. As used in Sections 41-21-61 through 41-21-107,  
2436 unless the context otherwise requires, the following terms defined  
2437 have the meanings ascribed to them:

2438           (a) "Chancellor" means a chancellor or a special master  
2439 in chancery.

2440           (b) "Clerk" means the clerk of the chancery court.

2441           (c) "Director" means the chief administrative officer  
2442 of a treatment facility or other employee designated by him as his  
2443 deputy.

2444           (d) "Interested person" means an adult, including but  
2445 not limited to, a public official, and the legal guardian, spouse,  
2446 parent, legal counsel, adult, child next of kin, or other person  
2447 designated by a proposed patient.

2448           (e) " \* \* \* Person with mental illness" means any  
2449 person who has a substantial psychiatric disorder of thought,  
2450 mood, perception, orientation, or memory which grossly impairs  
2451 judgment, behavior, capacity to recognize reality, or to reason or  
2452 understand, which (i) is manifested by instances of grossly  
2453 disturbed behavior or faulty perceptions; and (ii) poses a  
2454 substantial likelihood of physical harm to himself or others as  
2455 demonstrated by (A) a recent attempt or threat to physically harm  
2456 himself or others, or (B) a failure to provide necessary food,  
2457 clothing, shelter or medical care for himself, as a result of the  
2458 impairment. " \* \* \* Person with mental illness" includes a person  
2459 who, based on treatment history and other applicable psychiatric  
2460 indicia, is in need of treatment in order to prevent further



2461 disability or deterioration which would predictably result in  
2462 dangerousness to himself or others when his current mental illness  
2463 limits or negates his ability to make an informed decision to seek  
2464 or comply with recommended treatment. " \* \* \* Person with mental  
2465 illness" does not include a person having only one or more of the  
2466 following conditions: (1) epilepsy, (2) an intellectual  
2467 disability, (3) brief periods of intoxication caused by alcohol or  
2468 drugs, (4) dependence upon or addiction to any alcohol or drugs,  
2469 or (5) senile dementia.

2470 (f) " \* \* \* Person with an intellectual disability"  
2471 means any person (i) who has been diagnosed as having substantial  
2472 limitations in present functioning, manifested before age eighteen  
2473 (18), characterized by significantly subaverage intellectual  
2474 functioning, existing concurrently with related limitations in two  
2475 (2) or more of the following applicable adaptive skill areas:  
2476 communication, self-care, home living, social skills, community  
2477 use, self-direction, health and safety, functional academics,  
2478 leisure and work, and (ii) whose recent conduct is a result of  
2479 having an intellectual disability and poses a substantial  
2480 likelihood of physical harm to himself or others in that there has  
2481 been (A) a recent attempt or threat to physically harm himself or  
2482 others, or (B) a failure and inability to provide necessary food,  
2483 clothing, shelter, safety, or medical care for himself.

2484 (g) "Physician" means any person licensed by the State  
2485 of Mississippi to practice medicine in any of its branches.

2486 (h) "Psychologist" when used in Sections 41-21-61  
2487 through 41-21-107, means a licensed psychologist who has been  
2488 certified by the State Board of Psychological Examiners as  
2489 qualified to perform examinations for the purpose of civil  
2490 commitment.

2491 (i) "Treatment facility" means a hospital, community  
2492 mental health center, or other institution qualified to provide



2493 care and treatment for persons with mental illness, persons with  
2494 an intellectual disability or chemically dependent persons.

2495 **SECTION 59.** Section 41-21-67, Mississippi Code of 1972, as  
2496 amended by House Bill No. 1525, 2010 Regular Session, is amended  
2497 as follows:

2498 41-21-67. (1) Whenever the affidavit provided for in  
2499 Section 41-21-65 is filed with the chancery clerk, the clerk, upon  
2500 direction of the chancellor of the court, shall issue a writ  
2501 directed to the sheriff of the proper county to take into his or  
2502 her custody the person alleged to be in need of treatment and to  
2503 bring the person before the clerk or chancellor, who shall order  
2504 pre-evaluation screening and treatment by the appropriate  
2505 community mental health center established under Section 41-19-31  
2506 and for examination as set forth in Section 41-21-69. However,  
2507 when the affidavit fails to set forth factual allegations and  
2508 witnesses sufficient to support the need for treatment, the  
2509 chancellor shall refuse to direct issuance of the writ.  
2510 Reapplication may be made to the chancellor. If a pauper's  
2511 affidavit is filed by a guardian for commitment of the ward of the  
2512 guardian, the court shall determine if the ward is a pauper and if  
2513 the ward is determined to be a pauper, the county of the residence  
2514 of the respondent shall bear the costs of commitment, unless funds  
2515 for those purposes are made available by the state.

2516 (2) Upon issuance of the writ, the chancellor shall  
2517 immediately appoint and summon two (2) reputable, licensed  
2518 physicians or one (1) reputable, licensed physician and either one  
2519 (1) psychologist, nurse practitioner or physician assistant to  
2520 conduct a physical and mental examination of the person at a place  
2521 to be designated by the clerk or chancellor and to report their  
2522 findings to the clerk or chancellor. \* \* \* However, \* \* \* any  
2523 nurse practitioner or physician assistant conducting the  
2524 examination shall be independent from, and not under the  
2525 supervision of, the other physician conducting the examination.



2526 In all counties in which there is a county health officer, the  
2527 county health officer, if available, may be one (1) of the  
2528 physicians so appointed. Neither of the physicians nor the  
2529 psychologist, nurse practitioner or physician assistant selected  
2530 shall be related to that person in any way, nor have any direct or  
2531 indirect interest in the estate of that person nor shall any  
2532 full-time staff of residential treatment facilities operated  
2533 directly by the Department of Mental Health serve as examiner.

2534 (3) The clerk shall ascertain whether the respondent is  
2535 represented by an attorney, and if it is determined that  
2536 respondent does not have an attorney, the clerk shall immediately  
2537 notify the chancellor of that fact. If the chancellor determines  
2538 that respondent for any reason does not have the services of an  
2539 attorney, the chancellor shall immediately appoint an attorney for  
2540 the respondent at the time the examiners are appointed.

2541 (4) If the chancellor determines that there is probable  
2542 cause to believe that the respondent has mental illness and that  
2543 there is no reasonable alternative to detention, the chancellor  
2544 may order that the respondent be retained as an emergency patient  
2545 at any available regional mental health facility or any other  
2546 available suitable location as the court may so designate pending  
2547 an admission hearing and may, if necessary, order a peace officer  
2548 or other person to transport the respondent to that mental health  
2549 facility or suitable location. Any respondent so retained may be  
2550 given such treatment \* \* \* as is indicated by standard medical  
2551 practice. However, the respondent shall not be held in a hospital  
2552 operated directly by the Department of Mental Health, and shall  
2553 not be held in jail, unless the court finds that there is no  
2554 reasonable alternative.

2555 (5) Whenever a licensed physician, psychologist, nurse  
2556 practitioner or physician assistant certified to complete  
2557 examinations for the purpose of commitment has reason to believe  
2558 that a person poses an immediate substantial likelihood of



2559 physical harm to himself or others or is gravely disabled and  
2560 unable to care for himself by virtue of having mental illness, as  
2561 defined in Section 41-21-61(e), then the physician, psychologist,  
2562 nurse practitioner or physician assistant may hold the person  
2563 or \* \* \* may admit the person to and treat the person in a  
2564 licensed medical facility, without a civil order or warrant for a  
2565 period not to exceed seventy-two (72) hours or the end of the next  
2566 business day of the chancery clerk's office. The person may be  
2567 held and treated as an emergency patient at any licensed medical  
2568 facility, available regional mental health facility, or crisis  
2569 intervention center. The physician, psychologist, nurse  
2570 practitioner or physician assistant who holds the person shall  
2571 certify in writing the reasons for the need for holding. Any  
2572 respondent so held may be given such treatment \* \* \* as indicated  
2573 by standard medical practice. Persons acting in good faith in  
2574 connection with the detention of a person believed to have mental  
2575 illness shall incur no liability, civil or criminal, for those  
2576 acts.

2577 **SECTION 60.** Section 41-21-69, Mississippi Code of 1972, is  
2578 amended as follows:

2579 41-21-69. (1) (a) The physicians or physician and  
2580 psychologist, nurse practitioner or physician assistant so  
2581 appointed shall immediately make a full inquiry into the condition  
2582 of the person alleged to be in need of treatment and shall make a  
2583 mental examination and physical evaluation of the person, and  
2584 shall make a report and certificate of their findings of all  
2585 mental and acute physical problems to the clerk of the court. The  
2586 report and certificate shall set forth the facts as found by the  
2587 physicians or physician and psychologist, nurse practitioner or  
2588 physician assistant and shall state whether or not the examiner is  
2589 of the opinion that the proposed patient is suffering a disability  
2590 defined in Sections 41-21-61 through 41-21-107 and should be  
2591 committed to a treatment facility. The statement shall include



2592 the reasons for that opinion. The examination may be based upon a  
2593 history provided by the patient and the report and certificate of  
2594 findings shall include an identification of all mental and  
2595 physical problems identified by the examination.

2596 (b) If the physicians or the physician and  
2597 psychologist, nurse practitioner or physician assistant so  
2598 appointed finds: (i) the respondent has mental illness; (ii) the  
2599 respondent is capable of surviving safely in the community with  
2600 available supervision from family, friends or others; (iii) based  
2601 on the respondent's treatment history and other applicable medical  
2602 or psychiatric indicia, the respondent is in need of treatment in  
2603 order to prevent further disability or deterioration that would  
2604 result in significant deterioration in the ability to carry out  
2605 activities of daily living; and (iv) his or her current mental  
2606 status or the nature of his or her illness limits or negates his  
2607 or her ability to make an informed decision to seek voluntarily or  
2608 comply with recommended treatment; the physicians or the physician  
2609 and psychologist, nurse practitioner or physician assistant so  
2610 appointed shall so show on the examination report and  
2611 certification and shall recommend outpatient commitment. The  
2612 examining physicians or the physician and psychologist, nurse  
2613 practitioner or physician assistant shall also show the name,  
2614 address and telephone number at the proposed outpatient treatment  
2615 physician or facility.

2616 (2) The examinations shall be conducted and concluded within  
2617 forty-eight (48) hours after the order for examination and  
2618 appointment of attorney, and the certificates of the physicians or  
2619 the physician and psychologist, nurse practitioner or physician  
2620 assistant shall be filed with the clerk of the court within that  
2621 time, unless the running of that period extends into nonbusiness  
2622 hours, in which event the certificate shall be filed at the  
2623 beginning of the next business day. However, if the examining  
2624 physicians or the physician and psychologist, nurse practitioner





2625 or physician assistant is of the opinion that additional time to  
2626 complete the examination is necessary, and this fact is  
2627 communicated to the chancery clerk or chancellor, the clerk or  
2628 chancellor shall have authority to extend the time for completion  
2629 of the examination and the filing of the certificate, the  
2630 extension to be not more than eight (8) hours.

2631 (3) At the beginning of the examination, the respondent  
2632 shall be told in plain language of the purpose of the examination,  
2633 the possible consequences of the examination, of his or her right  
2634 to refuse to answer any questions, and his or her right to have  
2635 his or her attorney present.

2636 **SECTION 61.** Section 41-21-73, Mississippi Code of 1972, is  
2637 amended as follows:

2638 41-21-73. (1) The hearing shall be conducted before the  
2639 chancellor. Within a reasonable period of time before the  
2640 hearing, notice of same shall be provided the respondent and his  
2641 attorney, which shall include: (a) notice of the date, time and  
2642 place of the hearing; (b) a clear statement of the purpose of the  
2643 hearing; (c) the possible consequences or outcome of the hearing;  
2644 (d) the facts that have been alleged in support of the need for  
2645 commitment; (e) the names, addresses and telephone numbers of the  
2646 examiner(s); and (f) other witnesses expected to testify.

2647 (2) The respondent must be present at the hearing unless the  
2648 chancellor determines that the respondent is unable to attend and  
2649 makes that determination and the reasons therefor part of the  
2650 record. At the time of the hearing the respondent shall not be so  
2651 under the influence or suffering from the effects of drugs,  
2652 medication or other treatment so as to be hampered in  
2653 participating in the proceedings. The court, at the time of the  
2654 hearing, shall be presented a record of all drugs, medication or  
2655 other treatment that the respondent has received pending the  
2656 hearing, unless the court determines that such a record would be  
2657 impractical and documents the reasons for that determination.



2658 (3) The respondent shall have the right to offer evidence,  
2659 to be confronted with the witnesses against him and to  
2660 cross-examine them and shall have the privilege against  
2661 self-incrimination. The rules of evidence applicable in other  
2662 judicial proceedings in this state shall be followed.

2663 (4) If the court finds by clear and convincing evidence that  
2664 the proposed patient is a \* \* \* person with mental illness or a  
2665 person with an intellectual disability and, if after careful  
2666 consideration of reasonable alternative dispositions, including,  
2667 but not limited to, dismissal of the proceedings, the court finds  
2668 that there is no suitable alternative to judicial commitment, the  
2669 court shall commit the patient for treatment in the least  
2670 restrictive treatment facility that can meet the patient's  
2671 treatment needs. Treatment prior to admission to a state-operated  
2672 facility shall be located as closely as possible to the patient's  
2673 county of residence and the county of residence shall be  
2674 responsible for that cost. Admissions to state-operated  
2675 facilities shall be in compliance with the catchment areas  
2676 established by the Department of Mental Health. A nonresident of  
2677 the state may be committed for treatment or confinement in the  
2678 county where such person was found.

2679 Alternatives to commitment to inpatient care may include, but  
2680 shall not be limited to: voluntary or court-ordered outpatient  
2681 commitment for treatment with specific reference to a treatment  
2682 regimen, day treatment in a hospital, night treatment in a  
2683 hospital, placement in the custody of a friend or relative or the  
2684 provision of home health services.

2685 For persons committed as having mental illness or having an  
2686 intellectual disability, the initial commitment shall not exceed  
2687 three (3) months.

2688 (5) No person shall be committed to a treatment facility  
2689 whose primary problems are the physical disabilities associated  
2690 with old age or birth defects of infancy.



2691 (6) The court shall state the findings of fact and  
2692 conclusions of law that constitute the basis for the order of  
2693 commitment. The findings shall include a listing of less  
2694 restrictive alternatives considered by the court and the reasons  
2695 that each was found not suitable.

2696 (7) A stenographic transcription shall be recorded by a  
2697 stenographer or electronic recording device and retained by the  
2698 court.

2699 (8) Notwithstanding any other provision of law to the  
2700 contrary, neither the Board of Mental Health or its members, nor  
2701 the Department of Mental Health or its related facilities, nor any  
2702 employee of the Department of Mental Health or its related  
2703 facilities, unless related to the respondent by blood or marriage,  
2704 shall be assigned or adjudicated custody, guardianship, or  
2705 conservatorship of the respondent.

2706 (9) The county where a person in need of treatment is found  
2707 is authorized to charge the county of such person's residence for  
2708 the costs incurred while such person is confined in the county  
2709 where such person was found.

2710 **SECTION 62.** Section 41-21-77, Mississippi Code of 1972, is  
2711 amended as follows:

2712 41-21-77. If admission is ordered at a treatment facility,  
2713 the sheriff, his or her deputy or any other person appointed or  
2714 authorized by the court shall immediately deliver the respondent  
2715 to the director of the appropriate facility. Neither the Board of  
2716 Mental Health or its members, nor the Department of Mental Health  
2717 or its related facilities, nor any employee of the Department of  
2718 Mental Health or its related facilities, shall be appointed,  
2719 authorized or ordered to deliver the respondent for treatment, and  
2720 no person shall be so delivered or admitted until the director of  
2721 the admitting institution determines that facilities and services  
2722 are available. Persons who have been ordered committed and are  
2723 awaiting admission may be given any such treatment in the facility



2724 by a licensed physician as is indicated by standard medical  
2725 practice. Any county facility used for providing housing,  
2726 maintenance and medical treatment for involuntarily committed  
2727 persons pending their transportation and admission to a state  
2728 treatment facility shall be certified by the State Department of  
2729 Mental Health under the provisions of Section 41-4-7(gg). No  
2730 person shall be delivered or admitted to any non-Department of  
2731 Mental Health treatment facility unless the treatment facility is  
2732 licensed and/or certified to provide the appropriate level of  
2733 psychiatric care for persons with mental illness. It is the  
2734 intent of this Legislature that county-owned hospitals work with  
2735 regional community mental health/intellectual disability centers  
2736 in providing care to local patients. The clerk shall provide the  
2737 director of the admitting institution with a certified copy of the  
2738 court order, a certified copy of the physicians' or the  
2739 physician's and psychologist's, nurse practitioner's or physician  
2740 assistant's certificate, a certified copy of the affidavit, and  
2741 any other information available concerning the physical and mental  
2742 condition of the respondent. Upon notification from the United  
2743 States Veterans Administration or other agency of the United  
2744 States government, that facilities are available and the  
2745 respondent is eligible for care and treatment in those facilities,  
2746 the court may enter an order for delivery of the respondent to or  
2747 retention by the Veterans Administration or other agency of the  
2748 United States government, and, in those cases the chief officer to  
2749 whom the respondent is so delivered or by whom he is retained  
2750 shall, with respect to the respondent, be vested with the same  
2751 powers as the director of the Mississippi State Hospital at  
2752 Whitfield, or the East Mississippi State Hospital at Meridian,  
2753 with respect to retention and discharge of the respondent.

2754       **SECTION 63.** Section 41-21-82, Mississippi Code of 1972, is  
2755 amended as follows:



2756 41-21-82. Prior to the termination of the initial commitment  
2757 order, the director of the facility shall cause an impartial  
2758 evaluation of the patient to be made in order to assess the extent  
2759 to which the grounds for initial commitment persist, the patient  
2760 continues to have mental illness, and alternatives to involuntary  
2761 commitment are available. If the results of this impartial  
2762 evaluation do not support the need for continued commitment, the  
2763 patient shall be discharged.

2764 The director shall file a written report with the committing  
2765 court setting forth in detail the results of this evaluation and  
2766 other facts indicating that the patient satisfies the statutory  
2767 requirement for continued commitment and the findings of the  
2768 examiner to support this conclusion. If, after reviewing the  
2769 director's report, the court finds that the patient continues to  
2770 have mental illness and that there is no alternative to  
2771 involuntary commitment, the commitment may be continued.

2772 Nothing in this section shall preclude the patient, his  
2773 counsel or another person acting in his behalf from requesting a  
2774 hearing under Section 41-21-81 or 41-21-99.

2775 **SECTION 64.** Section 41-21-83, Mississippi Code of 1972, is  
2776 amended as follows:

2777 41-21-83. If a hearing is requested as provided in Section  
2778 41-21-74, 41-21-81 or 41-21-99, the court shall not make a  
2779 determination of the need for continued commitment unless a  
2780 hearing is held and the court finds by clear and convincing  
2781 evidence that (a) the person continues to have mental illness or  
2782 have an intellectual disability; and (b) involuntary commitment is  
2783 necessary for the protection of the patient or others; and (c)  
2784 there is no alternative to involuntary commitment. Hearings held  
2785 under this section shall be held in the chancery court of the  
2786 county where the facility is located; \* \* \* however, \* \* \* if the  
2787 patient is confined at the Mississippi State Hospital at  
2788 Whitfield, Mississippi, the hearing shall be conducted by the



2789 Chancery Court of the First Judicial District of Hinds County,  
2790 Mississippi.

2791 The hearing shall be held within fourteen (14) days after  
2792 receipt by the court of the request for a hearing. The court may  
2793 continue the hearing for good cause shown. The clerk shall  
2794 ascertain whether the patient is represented by counsel, and, if  
2795 the patient is not represented, shall notify the chancellor who  
2796 shall appoint counsel for him if the chancellor determines that  
2797 the patient for any reason does not have the services of an  
2798 attorney; however, the patient may waive the appointment of  
2799 counsel subject to the approval of the court. Notice of the time  
2800 and place of the hearing shall be served at least seventy-two (72)  
2801 hours before the time of the hearing upon the patient, his  
2802 attorney, the director, and the person requesting the hearing, if  
2803 other than the patient, and any witnesses requested by the patient  
2804 or his attorney, or any witnesses the court may deem necessary or  
2805 desirable.

2806 The patient must be present at the hearing unless the  
2807 chancellor determines that the patient is unable to attend and  
2808 makes that determination and the reasons therefor part of the  
2809 record.

2810 The court shall put its findings and the reasons supporting  
2811 its findings in writing and shall have copies delivered to the  
2812 patient, his attorney, and the director of the treatment facility.  
2813 An appeal from the final commitment order by either party may be  
2814 had on the terms prescribed for appeals in civil cases; however,  
2815 such appeal shall be without supersedeas. The record on appeal  
2816 shall include the transcript of the commitment hearing.

2817 **SECTION 65.** Section 41-21-87, Mississippi Code of 1972, as  
2818 amended by Senate Bill No. 2841, 2010 Regular Session, is amended  
2819 as follows:

2820 41-21-87. (1) The director of either the treatment facility  
2821 where the patient is committed or the treatment facility where the



2822 patient resides while awaiting admission to any other treatment  
2823 facility may discharge any civilly committed patient upon filing  
2824 his certificate of discharge with the clerk of the committing  
2825 court, certifying that the patient, in his judgment, no longer  
2826 poses a substantial threat of physical harm to himself or others.

2827 (2) A director of a treatment facility specified in  
2828 subsection (1) above may return any patient to the custody of the  
2829 committing court upon providing seven (7) days' notice and upon  
2830 filing his certificate of same as follows:

2831 (a) When, in the judgment of the director, the patient  
2832 may be treated in a less restrictive environment; \* \* \*  
2833 however, \* \* \* treatment in such less restrictive environment  
2834 shall be implemented within seven (7) days after notification of  
2835 the court; or

2836 (b) When, in the judgment of the director, adequate  
2837 facilities or treatment are not available at the treatment  
2838 facility.

2839 (3) Except as provided in Section 41-21-88, no committing  
2840 court shall enjoin or restrain any director of a treatment  
2841 facility specified in subsection (1) above from discharging a  
2842 patient under this section whose treating professionals have  
2843 determined that the patient meets one (1) of the criteria for  
2844 discharge as outlined in subsection (1) or (2) of this section.  
2845 The director of the treatment facility where the patient is  
2846 committed may transfer any civilly committed patient from one (1)  
2847 facility operated directly by the Department of Mental Health to  
2848 another as necessary for the welfare of that or other patients.  
2849 Upon receiving the director's certificate of transfer, the court  
2850 shall enter an order accordingly.

2851 (4) Within twenty-four (24) hours prior to the release or  
2852 discharge of any civilly committed patient, other than a temporary  
2853 pass due to sickness or death in the patient's family, the  
2854 director shall give or cause to be given notice of such release or



2855 discharge to one (1) member of the patient's immediate family,  
2856 provided the member of the patient's immediate family has signed  
2857 the consent to release form provided under subsection (5) and has  
2858 furnished in writing a current address and telephone number, if  
2859 applicable, to the director for such purpose. The notice of  
2860 release shall also be provided to any victim of such person and/or  
2861 to any person to whom a restraining order has been entered to  
2862 protect from such person. The notice to the family member shall  
2863 include the psychiatric diagnosis of any chronic mental disorder  
2864 incurred by the civilly committed patient and any medications  
2865 provided or prescribed to the patient for such conditions.

2866 (5) All providers of service in a treatment facility,  
2867 whether in a community mental health/intellectual disability  
2868 center, region or state psychiatric hospital, are authorized and  
2869 directed to request a consent to release information from all  
2870 patients which will allow that entity to involve the family in the  
2871 patient's treatment. Such release form shall be developed by the  
2872 Department of Mental Health and provided to all treatment  
2873 facilities, community mental health/intellectual disability  
2874 centers and state facilities. All such facilities shall request  
2875 such a release of information upon the date of admission of the  
2876 patient to the facility or at least by the time the patient is  
2877 discharged.

2878 **SECTION 66.** Section 41-21-103, Mississippi Code of 1972, is  
2879 amended as follows:

2880 41-21-103. (1) Unless he or she has a legal guardian or  
2881 conservator, a married person or a person eighteen (18) years of  
2882 age or older may be admitted to a treatment facility as a  
2883 voluntary admittee for treatment, provided that the director deems  
2884 the person suitable for admission, upon the filing of an  
2885 application with the director, accompanied by certificates of two  
2886 (2) physicians or by one (1) physician and one (1) psychologist,  
2887 one (1) nurse practitioner or one (1) physician assistant who





2888 certify that they examined the person within the last five (5)  
2889 days and that the person is in need of observation, diagnosis and  
2890 treatment. The director may accept applications from the person  
2891 seeking admission or any interested person with the applicant's  
2892 written consent.

2893 (2) A \* \* \* person with an intellectual disability who is  
2894 under the age of eighteen (18) years and who is not married may be  
2895 admitted to a treatment facility upon application of his or her  
2896 parent or legal guardian if the following has occurred:

2897 (a) An investigation by the director that carefully  
2898 probes the person's social, psychological and developmental  
2899 background; and

2900 (b) A determination by the director that the person  
2901 will benefit from care and treatment of his or her disorder at the  
2902 facility and that services and facilities are available. The  
2903 reasons for the determination shall be recorded in writing.

2904 (3) A \* \* \* person with an intellectual disability or with  
2905 mental illness who is married or eighteen (18) years of age or  
2906 older and who has a legal guardian or conservator may be admitted  
2907 to a treatment facility upon application of his or her legal  
2908 guardian or conservator if authorization to make the application  
2909 has been received from the court having jurisdiction of the  
2910 guardianship or conservatorship and the following has occurred:

2911 (a) An investigation by the director that carefully  
2912 probes the person's social, psychological and developmental  
2913 background; and

2914 (b) A determination by the director that the person  
2915 will benefit from care and treatment of his or her disorder at the  
2916 facility and that services and facilities are available. The  
2917 reasons for the determination shall be recorded in writing.

2918 (4) A \* \* \* person with mental illness who is under the age  
2919 of fourteen (14) years may be admitted to a treatment facility



2920 upon the application of his or her parent or legal guardian if the  
2921 following has occurred:

2922 (a) An investigation by the director that carefully  
2923 probes the person's social, psychological and developmental  
2924 background; and

2925 (b) A determination by the director that the person  
2926 will benefit from care and treatment of his or her disorder at the  
2927 facility and that services and facilities are available. The  
2928 reasons for the determination shall be recorded in writing.

2929 (5) A \* \* \* person with mental illness who is fourteen (14)  
2930 years of age or older but less than eighteen (18) years of age may  
2931 be admitted to a treatment facility in the same manner as an adult  
2932 may be involuntarily committed.

2933 (6) Any voluntary admittee may leave a treatment facility  
2934 after five (5) days, excluding Saturdays, Sundays and holidays,  
2935 after he or she gives any member of the treatment facility staff  
2936 written notice of his or her desire to leave, unless before  
2937 leaving, the patient withdraws the notice by written withdrawal or  
2938 unless within those five (5) days a petition and the certificates  
2939 of two (2) examining physicians, or one (1) examining physician  
2940 and one (1) psychologist, nurse practitioner or physician  
2941 assistant, stating that the patient is in need of treatment, are  
2942 filed with the chancery clerk in the county of the patient's  
2943 residence or the county in which the treatment facility is  
2944 located; however, if the admittee is at Mississippi State Hospital  
2945 at Whitfield, the petition and certificate shall be filed with the  
2946 chancery clerk in the county of patient's residence or with the  
2947 Chancery Clerk for the First Judicial District of Hinds County,  
2948 and the chancellor or clerk shall order a hearing under Sections  
2949 41-21-61 through 41-21-107. The patient may continue to be  
2950 hospitalized pending a final order of the court in the court  
2951 proceedings.



2952           (7) The written application form for voluntary admission  
2953 shall contain in large, bold-face type a statement in simple,  
2954 nontechnical terms that the admittee may not leave for five (5)  
2955 days, excluding Saturdays, Sundays and holidays, after giving  
2956 written notice of his or her desire to leave. This right to leave  
2957 must also be communicated orally to the admittee at the time of  
2958 his or her admission, and a copy of the application form given to  
2959 the admittee and to any parent, guardian, relative, attorney or  
2960 friend who accompanied the patient to the treatment facility.

2961           **SECTION 67.** Section 41-21-109, Mississippi Code of 1972, is  
2962 amended as follows:

2963           41-21-109. (1) The purpose of this section is to provide  
2964 modern and efficient rehabilitation facilities for adolescents  
2965 with mental illness or with an intellectual disability who have  
2966 been committed for treatment by a court of competent jurisdiction  
2967 under Section 41-21-61 et seq.

2968           (2) The Department of Finance and Administration, acting  
2969 through the Bureau of Building, Grounds and Real Property  
2970 Management, using funds from bonds, monies appropriated by the  
2971 Legislature for those purposes, federal matching or other federal  
2972 funds, federal grants or other available funds from whatever  
2973 source, shall provide for by construction, lease, lease-purchase  
2974 or otherwise and equip the following juvenile rehabilitation  
2975 facilities under the jurisdiction and responsibility of the  
2976 Mississippi Department of Mental Health: Construction and  
2977 equipping of two (2) separate facilities each of which could serve  
2978 up to fifty (50) adolescents, and each of which will be located at  
2979 sites approved by the Department of Mental Health that would be  
2980 specifically designed to serve adolescents who meet commitment  
2981 criteria as defined by Section 41-21-61. One (1) fifty-bed  
2982 facility shall house adolescent offenders with mental illness, and  
2983 the other facility shall house adolescent offenders with an  
2984 intellectual disability. Priority admission to these facilities



2985 shall be those adolescents who have some involvement in the  
2986 judicial system. These facilities shall be self-contained and  
2987 offer a secure but therapeutic environment allowing persons to be  
2988 habilitated apart from persons who are more vulnerable and who  
2989 have disabilities that are more disabling. The number of persons  
2990 admitted to these facilities shall not exceed the number of beds  
2991 authorized under this section or the number of beds licensed or  
2992 authorized by the licensure and certification agency, whichever is  
2993 less.

2994 Those facilities shall be on property owned by the Department  
2995 of Mental Health, or its successor, at one or more sites selected  
2996 by the Department of Mental Health on land that is either donated  
2997 to the state or purchased by the state specifically for the  
2998 location of those facilities.

2999 (3) The facility located in Harrison County shall be known  
3000 as the Specialized Treatment Facility for the Emotionally  
3001 Disturbed, and the facility located in Brookhaven shall be known  
3002 as the Mississippi Adolescent Center.

3003 **SECTION 68.** Section 41-39-7, Mississippi Code of 1972, is  
3004 amended as follows:

3005 41-39-7. Upon the request of the Secretary of the State  
3006 Board of Health, the authorities in charge of the hospitals  
3007 supported either wholly or partly by state funds are authorized  
3008 and directed to deliver any body of any person, except the bodies  
3009 of \* \* \* persons with mental illness and persons with an  
3010 intellectual disability, dying in any of those hospitals to the  
3011 duly authorized representatives of the state university or any  
3012 medical college or any accredited mortuary science program in any  
3013 junior college in this state, giving the state university  
3014 preference in the event there is an insufficiency in dissecting  
3015 material for the use of all hospitals for anatomical purposes.  
3016 This applies to the remains of any person, except \* \* \* persons  
3017 with mental illness and persons with an intellectual disability,



3018 who dies in any of those hospitals, when the body is not, within a  
3019 reasonable time after death, claimed for burial by some fraternal  
3020 order, or by some person related to the deceased by blood or  
3021 marriage, or by some friend. The State Board of Health shall have  
3022 authority to adopt regulations for the proper burial of  
3023 those \* \* \* persons with mental illness and persons with an  
3024 intellectual disability. However, the human remains of any  
3025 unknown person who is a traveler dying suddenly shall not be so  
3026 delivered or used for anatomical purposes. Any human remains, so  
3027 delivered, shall be properly and decently removed from the  
3028 hospital, at the expense of the party to whom the same may be  
3029 delivered, and shall be transported under such regulations as the  
3030 State Board of Health may prescribe, and after use for strictly  
3031 necessary medical study, in the medical department of the  
3032 university, or in any medical college, or in any accredited  
3033 mortuary science program in any junior college in this state, as  
3034 the case may be, the body shall be decently interred or may be  
3035 cremated and the residue interred at the expense of the party  
3036 using the same. The State Board of Health shall have authority to  
3037 regulate and restrict the use of dead bodies used for the above  
3038 purposes. The authorities of the hospitals, the Secretary of the  
3039 State Board of Health, and the authorities of the university, any  
3040 medical college and any accredited mortuary science program in any  
3041 junior college in this state, shall each cause a record to be kept  
3042 of each body used and disposed of, under the provisions of this  
3043 section, and such records shall be subject to inspection of any  
3044 member of the State Board of Health at any time.

3045       **SECTION 69.** Section 43-6-171, Mississippi Code of 1972, is  
3046 amended as follows:

3047       43-6-171. (1) The Legislature recognizes that language used  
3048 in reference to individuals with disabilities shapes and reflects  
3049 society's attitudes towards people with disabilities. Many of the  
3050 terms currently used diminish the humanity and natural condition



3051 of having a disability. Certain terms are demeaning and create an  
3052 invisible barrier to inclusion as equal community members. The  
3053 Legislature finds it necessary to clarify preferred language for  
3054 new and revised laws and rules by requiring the use of terminology  
3055 that puts the person before the disability.

3056 (2) The legislative drafting offices of the House and Senate  
3057 are directed to avoid all references to the terms "disabled,"  
3058 "developmentally disabled," "mentally disabled," "mentally ill,"  
3059 "mentally retarded," "handicapped," "cripple" and "crippled," in  
3060 any new statute, memorial or resolution, and to change those  
3061 references in any existing statute, memorial or resolution as  
3062 sections including those references are otherwise amended by law.  
3063 The drafting offices are directed to replace the terms referenced  
3064 above as appropriate with the following revised terminology:  
3065 "individuals with disabilities," "individuals with developmental  
3066 disabilities," "individuals with mental illness" and "individuals  
3067 with an intellectual disability."

3068 (3) No statute, memorial or resolution is invalid because it  
3069 does not comply with this section.

3070 (4) All state agency orders creating new rules, or amending  
3071 existing rules, shall be formulated in accordance with the  
3072 requirements of subsection (1) of this section regarding the use  
3073 of respectful language.

3074 (5) No agency rule is invalid because it does not comply  
3075 with this section.

3076 **SECTION 70.** Section 43-13-105, Mississippi Code of 1972, is  
3077 amended as follows:

3078 43-13-105. When used in this article, the following  
3079 definitions shall apply, unless the context requires otherwise:

3080 (a) "Administering agency" means the Division of  
3081 Medicaid in the Office of the Governor as created by this article.

3082 (b) "Division" or "Division of Medicaid" means the  
3083 Division of Medicaid in the Office of the Governor.



3084 (c) "Medical assistance" means payment of part or all  
3085 of the costs of medical and remedial care provided under the terms  
3086 of this article and in accordance with provisions of Titles XIX  
3087 and XXI of the Social Security Act, as amended.

3088 (d) "Applicant" means a person who applies for  
3089 assistance under Titles IV, XVI, XIX or XXI of the Social Security  
3090 Act, as amended, and under the terms of this article.

3091 (e) "Recipient" means a person who is eligible for  
3092 assistance under Title XIX or XXI of the Social Security Act, as  
3093 amended and under the terms of this article.

3094 (f) "State health agency" \* \* \* means any agency,  
3095 department, institution, board or commission of the State of  
3096 Mississippi, except the University of Mississippi Medical School,  
3097 which is supported in whole or in part by any public funds,  
3098 including funds directly appropriated from the State Treasury,  
3099 funds derived by taxes, fees levied or collected by statutory  
3100 authority, or any other funds used by "state health agencies"  
3101 derived from federal sources, when any funds available to such  
3102 agency are expended either directly or indirectly in connection  
3103 with, or in support of, any public health, hospital,  
3104 hospitalization or other public programs for the preventive  
3105 treatment or actual medical treatment of persons with a physical  
3106 disability, mental illness or an intellectual disability.

3107 (g) "Mississippi Medicaid Commission" or "Medicaid  
3108 Commission," wherever they appear in the laws of the State of  
3109 Mississippi, \* \* \* means the Division of Medicaid in the Office of  
3110 the Governor.

3111 **SECTION 71.** Section 43-13-117, Mississippi Code of 1972, is  
3112 amended as follows:

3113 **[The following amendments to this section shall not become**  
3114 **effective until the hospital assessment provided for in the 2009**  
3115 **amendments to Section 43-13-145 becomes effective. If the**  
3116 **hospital assessment shall not take effect and/or shall cease to be**



3117 **imposed, the provisions of Section 43-13-117 shall remain in**  
3118 **effect as existed on June 30, 2009.]**

3119 43-13-117. (A) Medicaid as authorized by this article shall  
3120 include payment of part or all of the costs, at the discretion of  
3121 the division, with approval of the Governor, of the following  
3122 types of care and services rendered to eligible applicants who  
3123 have been determined to be eligible for that care and services,  
3124 within the limits of state appropriations and federal matching  
3125 funds:

3126 (1) Inpatient hospital services.

3127 (a) The division shall allow thirty (30) days of  
3128 inpatient hospital care annually for all Medicaid recipients.  
3129 Medicaid recipients requiring transplants shall not have those  
3130 days included in the transplant hospital stay count against the  
3131 thirty-day limit for inpatient hospital care. Precertification of  
3132 inpatient days must be obtained as required by the division.

3133 (b) From and after July 1, 1994, the Executive  
3134 Director of the Division of Medicaid shall amend the Mississippi  
3135 Title XIX Inpatient Hospital Reimbursement Plan to remove the  
3136 occupancy rate penalty from the calculation of the Medicaid  
3137 Capital Cost Component utilized to determine total hospital costs  
3138 allocated to the Medicaid program.

3139 (c) Hospitals will receive an additional payment  
3140 for the implantable programmable baclofen drug pump used to treat  
3141 spasticity that is implanted on an inpatient basis. The payment  
3142 pursuant to written invoice will be in addition to the facility's  
3143 per diem reimbursement and will represent a reduction of costs on  
3144 the facility's annual cost report, and shall not exceed Ten  
3145 Thousand Dollars (\$10,000.00) per year per recipient.

3146 (2) Outpatient hospital services.

3147 (a) Emergency services. The division shall allow  
3148 six (6) medically necessary emergency room visits per beneficiary  
3149 per fiscal year.





3150                   (b) Other outpatient hospital services. The  
3151 division shall allow benefits for other medically necessary  
3152 outpatient hospital services (such as chemotherapy, radiation,  
3153 surgery and therapy), including outpatient services in a clinic or  
3154 other facility that is not located inside the hospital, but that  
3155 has been designated as an outpatient facility by the hospital, and  
3156 that was in operation or under construction on July 1, 2009,  
3157 provided that the costs and charges associated with the operation  
3158 of the hospital clinic are included in the hospital's cost report.  
3159 In addition, the Medicare thirty-five-mile rule will apply to  
3160 those hospital clinics not located inside the hospital that are  
3161 constructed after July 1, 2009. Where the same services are  
3162 reimbursed as clinic services, the division may revise the rate or  
3163 methodology of outpatient reimbursement to maintain consistency,  
3164 efficiency, economy and quality of care.

3165                   (3) Laboratory and x-ray services.

3166                   (4) Nursing facility services.

3167                   (a) The division shall make full payment to  
3168 nursing facilities for each day, not exceeding fifty-two (52) days  
3169 per year, that a patient is absent from the facility on home  
3170 leave. Payment may be made for the following home leave days in  
3171 addition to the fifty-two-day limitation: Christmas, the day  
3172 before Christmas, the day after Christmas, Thanksgiving, the day  
3173 before Thanksgiving and the day after Thanksgiving.

3174                   (b) From and after July 1, 1997, the division  
3175 shall implement the integrated case-mix payment and quality  
3176 monitoring system, which includes the fair rental system for  
3177 property costs and in which recapture of depreciation is  
3178 eliminated. The division may reduce the payment for hospital  
3179 leave and therapeutic home leave days to the lower of the case-mix  
3180 category as computed for the resident on leave using the  
3181 assessment being utilized for payment at that point in time, or a  
3182 case-mix score of 1.000 for nursing facilities, and shall compute



3183 case-mix scores of residents so that only services provided at the  
3184 nursing facility are considered in calculating a facility's per  
3185 diem.

3186 (c) From and after July 1, 1997, all state-owned  
3187 nursing facilities shall be reimbursed on a full reasonable cost  
3188 basis.

3189 (d) When a facility of a category that does not  
3190 require a certificate of need for construction and that could not  
3191 be eligible for Medicaid reimbursement is constructed to nursing  
3192 facility specifications for licensure and certification, and the  
3193 facility is subsequently converted to a nursing facility under a  
3194 certificate of need that authorizes conversion only and the  
3195 applicant for the certificate of need was assessed an application  
3196 review fee based on capital expenditures incurred in constructing  
3197 the facility, the division shall allow reimbursement for capital  
3198 expenditures necessary for construction of the facility that were  
3199 incurred within the twenty-four (24) consecutive calendar months  
3200 immediately preceding the date that the certificate of need  
3201 authorizing the conversion was issued, to the same extent that  
3202 reimbursement would be allowed for construction of a new nursing  
3203 facility under a certificate of need that authorizes that  
3204 construction. The reimbursement authorized in this subparagraph  
3205 (d) may be made only to facilities the construction of which was  
3206 completed after June 30, 1989. Before the division shall be  
3207 authorized to make the reimbursement authorized in this  
3208 subparagraph (d), the division first must have received approval  
3209 from the Centers for Medicare and Medicaid Services (CMS) of the  
3210 change in the state Medicaid plan providing for the reimbursement.

3211 (e) The division shall develop and implement, not  
3212 later than January 1, 2001, a case-mix payment add-on determined  
3213 by time studies and other valid statistical data that will  
3214 reimburse a nursing facility for the additional cost of caring for  
3215 a resident who has a diagnosis of Alzheimer's or other related



3216 dementia and exhibits symptoms that require special care. Any  
3217 such case-mix add-on payment shall be supported by a determination  
3218 of additional cost. The division shall also develop and implement  
3219 as part of the fair rental reimbursement system for nursing  
3220 facility beds, an Alzheimer's resident bed depreciation enhanced  
3221 reimbursement system that will provide an incentive to encourage  
3222 nursing facilities to convert or construct beds for residents with  
3223 Alzheimer's or other related dementia.

3224 (f) The division shall develop and implement an  
3225 assessment process for long-term care services. The division may  
3226 provide the assessment and related functions directly or through  
3227 contract with the area agencies on aging.

3228 The division shall apply for necessary federal waivers to  
3229 assure that additional services providing alternatives to nursing  
3230 facility care are made available to applicants for nursing  
3231 facility care.

3232 (5) Periodic screening and diagnostic services for  
3233 individuals under age twenty-one (21) years as are needed to  
3234 identify physical and mental defects and to provide health care  
3235 treatment and other measures designed to correct or ameliorate  
3236 defects and physical and mental illness and conditions discovered  
3237 by the screening services, regardless of whether these services  
3238 are included in the state plan. The division may include in its  
3239 periodic screening and diagnostic program those discretionary  
3240 services authorized under the federal regulations adopted to  
3241 implement Title XIX of the federal Social Security Act, as  
3242 amended. The division, in obtaining physical therapy services,  
3243 occupational therapy services, and services for individuals with  
3244 speech, hearing and language disorders, may enter into a  
3245 cooperative agreement with the State Department of Education for  
3246 the provision of those services to handicapped students by public  
3247 school districts using state funds that are provided from the  
3248 appropriation to the Department of Education to obtain federal



3249 matching funds through the division. The division, in obtaining  
3250 medical and mental health assessments, treatment, care and  
3251 services for children who are in, or at risk of being put in, the  
3252 custody of the Mississippi Department of Human Services may enter  
3253 into a cooperative agreement with the Mississippi Department of  
3254 Human Services for the provision of those services using state  
3255 funds that are provided from the appropriation to the Department  
3256 of Human Services to obtain federal matching funds through the  
3257 division.

3258 (6) Physician's services. The division shall allow  
3259 twelve (12) physician visits annually. All fees for physicians'  
3260 services that are covered only by Medicaid shall be reimbursed at  
3261 ninety percent (90%) of the rate established on January 1, 1999,  
3262 and as may be adjusted each July thereafter, under Medicare (Title  
3263 XVIII of the federal Social Security Act, as amended). The  
3264 division may develop and implement a different reimbursement model  
3265 or schedule for physician's services provided by physicians based  
3266 at an academic health care center and by physicians at rural  
3267 health centers that are associated with an academic health care  
3268 center. From and after January 1, 2010, all fees for physicians'  
3269 services that are covered only by Medicaid shall be increased to  
3270 ninety percent (90%) of the rate established on January 1, 2010,  
3271 and as may be adjusted each July thereafter, under Medicare.

3272 (7) (a) Home health services for eligible persons, not  
3273 to exceed in cost the prevailing cost of nursing facility  
3274 services, not to exceed twenty-five (25) visits per year. All  
3275 home health visits must be precertified as required by the  
3276 division.

3277 (b) [Repealed]

3278 (8) Emergency medical transportation services. On  
3279 January 1, 1994, emergency medical transportation services shall  
3280 be reimbursed at seventy percent (70%) of the rate established  
3281 under Medicare (Title XVIII of the federal Social Security Act, as



3282 amended). "Emergency medical transportation services" shall mean,  
3283 but shall not be limited to, the following services by a properly  
3284 permitted ambulance operated by a properly licensed provider in  
3285 accordance with the Emergency Medical Services Act of 1974  
3286 (Section 41-59-1 et seq.): (i) basic life support, (ii) advanced  
3287 life support, (iii) mileage, (iv) oxygen, (v) intravenous fluids,  
3288 (vi) disposable supplies, (vii) similar services.

3289 (9) (a) Legend and other drugs as may be determined by  
3290 the division.

3291 The division shall establish a mandatory preferred drug list.  
3292 Drugs not on the mandatory preferred drug list shall be made  
3293 available by utilizing prior authorization procedures established  
3294 by the division.

3295 The division may seek to establish relationships with other  
3296 states in order to lower acquisition costs of prescription drugs  
3297 to include single source and innovator multiple source drugs or  
3298 generic drugs. In addition, if allowed by federal law or  
3299 regulation, the division may seek to establish relationships with  
3300 and negotiate with other countries to facilitate the acquisition  
3301 of prescription drugs to include single source and innovator  
3302 multiple source drugs or generic drugs, if that will lower the  
3303 acquisition costs of those prescription drugs.

3304 The division shall allow for a combination of prescriptions  
3305 for single source and innovator multiple source drugs and generic  
3306 drugs to meet the needs of the beneficiaries, not to exceed five  
3307 (5) prescriptions per month for each noninstitutionalized Medicaid  
3308 beneficiary, with not more than two (2) of those prescriptions  
3309 being for single source or innovator multiple source drugs.

3310 The executive director may approve specific maintenance drugs  
3311 for beneficiaries with certain medical conditions, which may be  
3312 prescribed and dispensed in three-month supply increments.

3313 Drugs prescribed for a resident of a psychiatric residential  
3314 treatment facility must be provided in true unit doses when



3315 available. The division may require that drugs not covered by  
3316 Medicare Part D for a resident of a long-term care facility be  
3317 provided in true unit doses when available. Those drugs that were  
3318 originally billed to the division but are not used by a resident  
3319 in any of those facilities shall be returned to the billing  
3320 pharmacy for credit to the division, in accordance with the  
3321 guidelines of the State Board of Pharmacy and any requirements of  
3322 federal law and regulation. Drugs shall be dispensed to a  
3323 recipient and only one (1) dispensing fee per month may be  
3324 charged. The division shall develop a methodology for reimbursing  
3325 for restocked drugs, which shall include a restock fee as  
3326 determined by the division not exceeding Seven Dollars and  
3327 Eighty-two Cents (\$7.82).

3328 The voluntary preferred drug list shall be expanded to  
3329 function in the interim in order to have a manageable prior  
3330 authorization system, thereby minimizing disruption of service to  
3331 beneficiaries.

3332 Except for those specific maintenance drugs approved by the  
3333 executive director, the division shall not reimburse for any  
3334 portion of a prescription that exceeds a thirty-one-day supply of  
3335 the drug based on the daily dosage.

3336 The division shall develop and implement a program of payment  
3337 for additional pharmacist services, with payment to be based on  
3338 demonstrated savings, but in no case shall the total payment  
3339 exceed twice the amount of the dispensing fee.

3340 All claims for drugs for dually eligible Medicare/Medicaid  
3341 beneficiaries that are paid for by Medicare must be submitted to  
3342 Medicare for payment before they may be processed by the  
3343 division's online payment system.

3344 The division shall develop a pharmacy policy in which drugs  
3345 in tamper-resistant packaging that are prescribed for a resident  
3346 of a nursing facility but are not dispensed to the resident shall



3347 be returned to the pharmacy and not billed to Medicaid, in  
3348 accordance with guidelines of the State Board of Pharmacy.

3349 The division shall develop and implement a method or methods  
3350 by which the division will provide on a regular basis to Medicaid  
3351 providers who are authorized to prescribe drugs, information about  
3352 the costs to the Medicaid program of single source drugs and  
3353 innovator multiple source drugs, and information about other drugs  
3354 that may be prescribed as alternatives to those single source  
3355 drugs and innovator multiple source drugs and the costs to the  
3356 Medicaid program of those alternative drugs.

3357 Notwithstanding any law or regulation, information obtained  
3358 or maintained by the division regarding the prescription drug  
3359 program, including trade secrets and manufacturer or labeler  
3360 pricing, is confidential and not subject to disclosure except to  
3361 other state agencies.

3362 (b) Payment by the division for covered  
3363 multisource drugs shall be limited to the lower of the upper  
3364 limits established and published by the Centers for Medicare and  
3365 Medicaid Services (CMS) plus a dispensing fee, or the estimated  
3366 acquisition cost (EAC) as determined by the division, plus a  
3367 dispensing fee, or the providers' usual and customary charge to  
3368 the general public.

3369 Payment for other covered drugs, other than multisource drugs  
3370 with CMS upper limits, shall not exceed the lower of the estimated  
3371 acquisition cost as determined by the division, plus a dispensing  
3372 fee or the providers' usual and customary charge to the general  
3373 public.

3374 Payment for nonlegend or over-the-counter drugs covered by  
3375 the division shall be reimbursed at the lower of the division's  
3376 estimated shelf price or the providers' usual and customary charge  
3377 to the general public.

3378 The dispensing fee for each new or refill prescription,  
3379 including nonlegend or over-the-counter drugs covered by the



3380 division, shall be not less than Three Dollars and Ninety-one  
3381 Cents (\$3.91), as determined by the division.

3382 The division shall not reimburse for single source or  
3383 innovator multiple source drugs if there are equally effective  
3384 generic equivalents available and if the generic equivalents are  
3385 the least expensive.

3386 It is the intent of the Legislature that the pharmacists  
3387 providers be reimbursed for the reasonable costs of filling and  
3388 dispensing prescriptions for Medicaid beneficiaries.

3389 (10) (a) Dental care that is an adjunct to treatment  
3390 of an acute medical or surgical condition; services of oral  
3391 surgeons and dentists in connection with surgery related to the  
3392 jaw or any structure contiguous to the jaw or the reduction of any  
3393 fracture of the jaw or any facial bone; and emergency dental  
3394 extractions and treatment related thereto. On July 1, 2007, fees  
3395 for dental care and surgery under authority of this paragraph (10)  
3396 shall be reimbursed as provided in subparagraph (b). It is the  
3397 intent of the Legislature that this rate revision for dental  
3398 services will be an incentive designed to increase the number of  
3399 dentists who actively provide Medicaid services. This dental  
3400 services rate revision shall be known as the "James Russell Dumas  
3401 Medicaid Dental Incentive Program."

3402 The division shall annually determine the effect of this  
3403 incentive by evaluating the number of dentists who are Medicaid  
3404 providers, the number who and the degree to which they are  
3405 actively billing Medicaid, the geographic trends of where dentists  
3406 are offering what types of Medicaid services and other statistics  
3407 pertinent to the goals of this legislative intent. This data  
3408 shall be presented to the Chair of the Senate Public Health and  
3409 Welfare Committee and the Chair of the House Medicaid Committee.

3410 (b) The Division of Medicaid shall establish a fee  
3411 schedule, to be effective from and after July 1, 2007, for dental  
3412 services. The schedule shall provide for a fee for each dental





3413 service that is equal to a percentile of normal and customary  
3414 private provider fees, as defined by the Ingenix Customized Fee  
3415 Analyzer Report, which percentile shall be determined by the  
3416 division. The schedule shall be reviewed annually by the division  
3417 and dental fees shall be adjusted to reflect the percentile  
3418 determined by the division.

3419 (c) For fiscal year 2008, the amount of state  
3420 funds appropriated for reimbursement for dental care and surgery  
3421 shall be increased by ten percent (10%) of the amount of state  
3422 fund expenditures for that purpose for fiscal year 2007. For each  
3423 of fiscal years 2009 and 2010, the amount of state funds  
3424 appropriated for reimbursement for dental care and surgery shall  
3425 be increased by ten percent (10%) of the amount of state fund  
3426 expenditures for that purpose for the preceding fiscal year.

3427 (d) The division shall establish an annual benefit  
3428 limit of Two Thousand Five Hundred Dollars (\$2,500.00) in dental  
3429 expenditures per Medicaid-eligible recipient; however, a recipient  
3430 may exceed the annual limit on dental expenditures provided in  
3431 this paragraph with prior approval of the division.

3432 (e) The division shall include dental services as  
3433 a necessary component of overall health services provided to  
3434 children who are eligible for services.

3435 (f) This paragraph (10) shall stand repealed on  
3436 July 1, 2012.

3437 (11) Eyeglasses for all Medicaid beneficiaries who have  
3438 (a) had surgery on the eyeball or ocular muscle that results in a  
3439 vision change for which eyeglasses or a change in eyeglasses is  
3440 medically indicated within six (6) months of the surgery and is in  
3441 accordance with policies established by the division, or (b) one  
3442 (1) pair every five (5) years and in accordance with policies  
3443 established by the division. In either instance, the eyeglasses  
3444 must be prescribed by a physician skilled in diseases of the eye  
3445 or an optometrist, whichever the beneficiary may select.



3446 (12) Intermediate care facility services.

3447 (a) The division shall make full payment to all  
3448 intermediate care facilities for the mentally retarded for each  
3449 day, not exceeding eighty-four (84) days per year, that a patient  
3450 is absent from the facility on home leave. Payment may be made  
3451 for the following home leave days in addition to the  
3452 eighty-four-day limitation: Christmas, the day before Christmas,  
3453 the day after Christmas, Thanksgiving, the day before Thanksgiving  
3454 and the day after Thanksgiving.

3455 (b) All state-owned intermediate care facilities  
3456 for the mentally retarded shall be reimbursed on a full reasonable  
3457 cost basis.

3458 (13) Family planning services, including drugs,  
3459 supplies and devices, when those services are under the  
3460 supervision of a physician or nurse practitioner.

3461 (14) Clinic services. Such diagnostic, preventive,  
3462 therapeutic, rehabilitative or palliative services furnished to an  
3463 outpatient by or under the supervision of a physician or dentist  
3464 in a facility that is not a part of a hospital but that is  
3465 organized and operated to provide medical care to outpatients.  
3466 Clinic services shall include any services reimbursed as  
3467 outpatient hospital services that may be rendered in such a  
3468 facility, including those that become so after July 1, 1991. On  
3469 July 1, 1999, all fees for physicians' services reimbursed under  
3470 authority of this paragraph (14) shall be reimbursed at ninety  
3471 percent (90%) of the rate established on January 1, 1999, and as  
3472 may be adjusted each July thereafter, under Medicare (Title XVIII  
3473 of the federal Social Security Act, as amended). The division may  
3474 develop and implement a different reimbursement model or schedule  
3475 for physician's services provided by physicians based at an  
3476 academic health care center and by physicians at rural health  
3477 centers that are associated with an academic health care center.



3478 (15) Home- and community-based services for the elderly  
3479 and disabled, as provided under Title XIX of the federal Social  
3480 Security Act, as amended, under waivers, subject to the  
3481 availability of funds specifically appropriated for that purpose  
3482 by the Legislature.

3483 (16) Mental health services. Approved therapeutic and  
3484 case management services (a) provided by an approved regional  
3485 mental health/intellectual disability center established under  
3486 Sections 41-19-31 through 41-19-39, or by another community mental  
3487 health service provider meeting the requirements of the Department  
3488 of Mental Health to be an approved mental health/intellectual  
3489 disability center if determined necessary by the Department of  
3490 Mental Health, using state funds that are provided from the  
3491 appropriation to the State Department of Mental Health and/or  
3492 funds transferred to the department by a political subdivision or  
3493 instrumentality of the state and used to match federal funds under  
3494 a cooperative agreement between the division and the department,  
3495 or (b) provided by a facility that is certified by the State  
3496 Department of Mental Health to provide therapeutic and case  
3497 management services, to be reimbursed on a fee for service basis,  
3498 or (c) provided in the community by a facility or program operated  
3499 by the Department of Mental Health. Any such services provided by  
3500 a facility described in subparagraph (b) must have the prior  
3501 approval of the division to be reimbursable under this section.  
3502 After June 30, 1997, mental health services provided by regional  
3503 mental health/intellectual disability centers established under  
3504 Sections 41-19-31 through 41-19-39, or by hospitals as defined in  
3505 Section 41-9-3(a) and/or their subsidiaries and divisions, or by  
3506 psychiatric residential treatment facilities as defined in Section  
3507 43-11-1, or by another community mental health service provider  
3508 meeting the requirements of the Department of Mental Health to be  
3509 an approved mental health/intellectual disability center if  
3510 determined necessary by the Department of Mental Health, shall not



3511 be included in or provided under any capitated managed care pilot  
3512 program provided for under paragraph (24) of this section.

3513 (17) Durable medical equipment services and medical  
3514 supplies. Precertification of durable medical equipment and  
3515 medical supplies must be obtained as required by the division.  
3516 The Division of Medicaid may require durable medical equipment  
3517 providers to obtain a surety bond in the amount and to the  
3518 specifications as established by the Balanced Budget Act of 1997.

3519 (18) (a) Notwithstanding any other provision of this  
3520 section to the contrary, as provided in the Medicaid state plan  
3521 amendment or amendments as defined in Section 43-13-145(10), the  
3522 division shall make additional reimbursement to hospitals that  
3523 serve a disproportionate share of low-income patients and that  
3524 meet the federal requirements for those payments as provided in  
3525 Section 1923 of the federal Social Security Act and any applicable  
3526 regulations. It is the intent of the Legislature that the  
3527 division shall draw down all available federal funds allotted to  
3528 the state for disproportionate share hospitals. However, from and  
3529 after January 1, 1999, public hospitals participating in the  
3530 Medicaid disproportionate share program may be required to  
3531 participate in an intergovernmental transfer program as provided  
3532 in Section 1903 of the federal Social Security Act and any  
3533 applicable regulations.

3534 (b) The division shall establish a Medicare Upper  
3535 Payment Limits Program, as defined in Section 1902(a)(30) of the  
3536 federal Social Security Act and any applicable federal  
3537 regulations, for hospitals, and may establish a Medicare Upper  
3538 Payment Limits Program for nursing facilities. The division shall  
3539 assess each hospital and, if the program is established for  
3540 nursing facilities, shall assess each nursing facility, for the  
3541 sole purpose of financing the state portion of the Medicare Upper  
3542 Payment Limits Program. The hospital assessment shall be as  
3543 provided in Section 43-13-145(4)(a) and the nursing facility



3544 assessment, if established, shall be based on Medicaid utilization  
3545 or other appropriate method consistent with federal regulations.  
3546 The assessment will remain in effect as long as the state  
3547 participates in the Medicare Upper Payment Limits Program. As  
3548 provided in the Medicaid state plan amendment or amendments as  
3549 defined in Section 43-13-145(10), the division shall make  
3550 additional reimbursement to hospitals and, if the program is  
3551 established for nursing facilities, shall make additional  
3552 reimbursement to nursing facilities, for the Medicare Upper  
3553 Payment Limits, as defined in Section 1902(a)(30) of the federal  
3554 Social Security Act and any applicable federal regulations.

3555 (19) (a) Perinatal risk management services. The  
3556 division shall promulgate regulations to be effective from and  
3557 after October 1, 1988, to establish a comprehensive perinatal  
3558 system for risk assessment of all pregnant and infant Medicaid  
3559 recipients and for management, education and follow-up for those  
3560 who are determined to be at risk. Services to be performed  
3561 include case management, nutrition assessment/counseling,  
3562 psychosocial assessment/counseling and health education.

3563 (b) Early intervention system services. The  
3564 division shall cooperate with the State Department of Health,  
3565 acting as lead agency, in the development and implementation of a  
3566 statewide system of delivery of early intervention services, under  
3567 Part C of the Individuals with Disabilities Education Act (IDEA).  
3568 The State Department of Health shall certify annually in writing  
3569 to the executive director of the division the dollar amount of  
3570 state early intervention funds available that will be utilized as  
3571 a certified match for Medicaid matching funds. Those funds then  
3572 shall be used to provide expanded targeted case management  
3573 services for Medicaid eligible children with special needs who are  
3574 eligible for the state's early intervention system.

3575 Qualifications for persons providing service coordination shall be



3576 determined by the State Department of Health and the Division of  
3577 Medicaid.

3578           (20) Home- and community-based services for physically  
3579 disabled approved services as allowed by a waiver from the United  
3580 States Department of Health and Human Services for home- and  
3581 community-based services for physically disabled people using  
3582 state funds that are provided from the appropriation to the State  
3583 Department of Rehabilitation Services and used to match federal  
3584 funds under a cooperative agreement between the division and the  
3585 department, provided that funds for these services are  
3586 specifically appropriated to the Department of Rehabilitation  
3587 Services.

3588           (21) Nurse practitioner services. Services furnished  
3589 by a registered nurse who is licensed and certified by the  
3590 Mississippi Board of Nursing as a nurse practitioner, including,  
3591 but not limited to, nurse anesthetists, nurse midwives, family  
3592 nurse practitioners, family planning nurse practitioners,  
3593 pediatric nurse practitioners, obstetrics-gynecology nurse  
3594 practitioners and neonatal nurse practitioners, under regulations  
3595 adopted by the division. Reimbursement for those services shall  
3596 not exceed ninety percent (90%) of the reimbursement rate for  
3597 comparable services rendered by a physician.

3598           (22) Ambulatory services delivered in federally  
3599 qualified health centers, rural health centers and clinics of the  
3600 local health departments of the State Department of Health for  
3601 individuals eligible for Medicaid under this article based on  
3602 reasonable costs as determined by the division.

3603           (23) Inpatient psychiatric services. Inpatient  
3604 psychiatric services to be determined by the division for  
3605 recipients under age twenty-one (21) that are provided under the  
3606 direction of a physician in an inpatient program in a licensed  
3607 acute care psychiatric facility or in a licensed psychiatric  
3608 residential treatment facility, before the recipient reaches age



3609 twenty-one (21) or, if the recipient was receiving the services  
3610 immediately before he or she reached age twenty-one (21), before  
3611 the earlier of the date he or she no longer requires the services  
3612 or the date he or she reaches age twenty-two (22), as provided by  
3613 federal regulations. Precertification of inpatient days and  
3614 residential treatment days must be obtained as required by the  
3615 division. From and after July 1, 2009, all state-owned and  
3616 state-operated facilities that provide inpatient psychiatric  
3617 services to persons under age twenty-one (21) who are eligible for  
3618 Medicaid reimbursement shall be reimbursed for those services on a  
3619 full reasonable cost basis.

3620 (24) [Deleted]

3621 (25) [Deleted]

3622 (26) Hospice care. As used in this paragraph, the term  
3623 "hospice care" means a coordinated program of active professional  
3624 medical attention within the home and outpatient and inpatient  
3625 care that treats the terminally ill patient and family as a unit,  
3626 employing a medically directed interdisciplinary team. The  
3627 program provides relief of severe pain or other physical symptoms  
3628 and supportive care to meet the special needs arising out of  
3629 physical, psychological, spiritual, social and economic stresses  
3630 that are experienced during the final stages of illness and during  
3631 dying and bereavement and meets the Medicare requirements for  
3632 participation as a hospice as provided in federal regulations.

3633 (27) Group health plan premiums and cost sharing if it  
3634 is cost-effective as defined by the United States Secretary of  
3635 Health and Human Services.

3636 (28) Other health insurance premiums that are  
3637 cost-effective as defined by the United States Secretary of Health  
3638 and Human Services. Medicare eligible must have Medicare Part B  
3639 before other insurance premiums can be paid.

3640 (29) The Division of Medicaid may apply for a waiver  
3641 from the United States Department of Health and Human Services for



3642 home- and community-based services for developmentally disabled  
3643 people using state funds that are provided from the appropriation  
3644 to the State Department of Mental Health and/or funds transferred  
3645 to the department by a political subdivision or instrumentality of  
3646 the state and used to match federal funds under a cooperative  
3647 agreement between the division and the department, provided that  
3648 funds for these services are specifically appropriated to the  
3649 Department of Mental Health and/or transferred to the department  
3650 by a political subdivision or instrumentality of the state.

3651 (30) Pediatric skilled nursing services for eligible  
3652 persons under twenty-one (21) years of age.

3653 (31) Targeted case management services for children  
3654 with special needs, under waivers from the United States  
3655 Department of Health and Human Services, using state funds that  
3656 are provided from the appropriation to the Mississippi Department  
3657 of Human Services and used to match federal funds under a  
3658 cooperative agreement between the division and the department.

3659 (32) Care and services provided in Christian Science  
3660 Sanatoria listed and certified by the Commission for Accreditation  
3661 of Christian Science Nursing Organizations/Facilities, Inc.,  
3662 rendered in connection with treatment by prayer or spiritual means  
3663 to the extent that those services are subject to reimbursement  
3664 under Section 1903 of the federal Social Security Act.

3665 (33) Podiatrist services.

3666 (34) Assisted living services as provided through home-  
3667 and community-based services under Title XIX of the federal Social  
3668 Security Act, as amended, subject to the availability of funds  
3669 specifically appropriated for that purpose by the Legislature.

3670 (35) Services and activities authorized in Sections  
3671 43-27-101 and 43-27-103, using state funds that are provided from  
3672 the appropriation to the Mississippi Department of Human Services  
3673 and used to match federal funds under a cooperative agreement  
3674 between the division and the department.





3675                   (36) Nonemergency transportation services for  
3676 Medicaid-eligible persons, to be provided by the Division of  
3677 Medicaid. The division may contract with additional entities to  
3678 administer nonemergency transportation services as it deems  
3679 necessary. All providers shall have a valid driver's license,  
3680 vehicle inspection sticker, valid vehicle license tags and a  
3681 standard liability insurance policy covering the vehicle. The  
3682 division may pay providers a flat fee based on mileage tiers, or  
3683 in the alternative, may reimburse on actual miles traveled. The  
3684 division may apply to the Center for Medicare and Medicaid  
3685 Services (CMS) for a waiver to draw federal matching funds for  
3686 nonemergency transportation services as a covered service instead  
3687 of an administrative cost. The PEER Committee shall conduct a  
3688 performance evaluation of the nonemergency transportation program  
3689 to evaluate the administration of the program and the providers of  
3690 transportation services to determine the most cost-effective ways  
3691 of providing nonemergency transportation services to the patients  
3692 served under the program. The performance evaluation shall be  
3693 completed and provided to the members of the Senate Public Health  
3694 and Welfare Committee and the House Medicaid Committee not later  
3695 than January 15, 2008.

3696                   (37) [Deleted]

3697                   (38) Chiropractic services. A chiropractor's manual  
3698 manipulation of the spine to correct a subluxation, if x-ray  
3699 demonstrates that a subluxation exists and if the subluxation has  
3700 resulted in a neuromusculoskeletal condition for which  
3701 manipulation is appropriate treatment, and related spinal x-rays  
3702 performed to document these conditions. Reimbursement for  
3703 chiropractic services shall not exceed Seven Hundred Dollars  
3704 (\$700.00) per year per beneficiary.

3705                   (39) Dually eligible Medicare/Medicaid beneficiaries.  
3706 The division shall pay the Medicare deductible and coinsurance  
3707 amounts for services available under Medicare, as determined by



3708 the division. From and after July 1, 2009, the division shall  
3709 reimburse crossover claims for inpatient hospital services and  
3710 crossover claims covered under Medicare Part B in the same manner  
3711 that was in effect on January 1, 2008, unless specifically  
3712 authorized by the Legislature to change this method.

3713 (40) [Deleted]

3714 (41) Services provided by the State Department of  
3715 Rehabilitation Services for the care and rehabilitation of persons  
3716 with spinal cord injuries or traumatic brain injuries, as allowed  
3717 under waivers from the United States Department of Health and  
3718 Human Services, using up to seventy-five percent (75%) of the  
3719 funds that are appropriated to the Department of Rehabilitation  
3720 Services from the Spinal Cord and Head Injury Trust Fund  
3721 established under Section 37-33-261 and used to match federal  
3722 funds under a cooperative agreement between the division and the  
3723 department.

3724 (42) Notwithstanding any other provision in this  
3725 article to the contrary, the division may develop a population  
3726 health management program for women and children health services  
3727 through the age of one (1) year. This program is primarily for  
3728 obstetrical care associated with low birth weight and preterm  
3729 babies. The division may apply to the federal Centers for  
3730 Medicare and Medicaid Services (CMS) for a Section 1115 waiver or  
3731 any other waivers that may enhance the program. In order to  
3732 effect cost savings, the division may develop a revised payment  
3733 methodology that may include at-risk capitated payments, and may  
3734 require member participation in accordance with the terms and  
3735 conditions of an approved federal waiver.

3736 (43) The division shall provide reimbursement,  
3737 according to a payment schedule developed by the division, for  
3738 smoking cessation medications for pregnant women during their  
3739 pregnancy and other Medicaid-eligible women who are of  
3740 child-bearing age.



3741 (44) Nursing facility services for the severely  
3742 disabled.

3743 (a) Severe disabilities include, but are not  
3744 limited to, spinal cord injuries, closed head injuries and  
3745 ventilator dependent patients.

3746 (b) Those services must be provided in a long-term  
3747 care nursing facility dedicated to the care and treatment of  
3748 persons with severe disabilities, and shall be reimbursed as a  
3749 separate category of nursing facilities.

3750 (45) Physician assistant services. Services furnished  
3751 by a physician assistant who is licensed by the State Board of  
3752 Medical Licensure and is practicing with physician supervision  
3753 under regulations adopted by the board, under regulations adopted  
3754 by the division. Reimbursement for those services shall not  
3755 exceed ninety percent (90%) of the reimbursement rate for  
3756 comparable services rendered by a physician.

3757 (46) The division shall make application to the federal  
3758 Centers for Medicare and Medicaid Services (CMS) for a waiver to  
3759 develop and provide services for children with serious emotional  
3760 disturbances as defined in Section 43-14-1(1), which may include  
3761 home- and community-based services, case management services or  
3762 managed care services through mental health providers certified by  
3763 the Department of Mental Health. The division may implement and  
3764 provide services under this waived program only if funds for  
3765 these services are specifically appropriated for this purpose by  
3766 the Legislature, or if funds are voluntarily provided by affected  
3767 agencies.

3768 (47) (a) Notwithstanding any other provision in this  
3769 article to the contrary, the division may develop and implement  
3770 disease management programs for individuals with high-cost chronic  
3771 diseases and conditions, including the use of grants, waivers,  
3772 demonstrations or other projects as necessary.



3773 (b) Participation in any disease management  
3774 program implemented under this paragraph (47) is optional with the  
3775 individual. An individual must affirmatively elect to participate  
3776 in the disease management program in order to participate, and may  
3777 elect to discontinue participation in the program at any time.

3778 (48) Pediatric long-term acute care hospital services.

3779 (a) Pediatric long-term acute care hospital  
3780 services means services provided to eligible persons under  
3781 twenty-one (21) years of age by a freestanding Medicare-certified  
3782 hospital that has an average length of inpatient stay greater than  
3783 twenty-five (25) days and that is primarily engaged in providing  
3784 chronic or long-term medical care to persons under twenty-one (21)  
3785 years of age.

3786 (b) The services under this paragraph (48) shall  
3787 be reimbursed as a separate category of hospital services.

3788 (49) The division shall establish copayments and/or  
3789 coinsurance for all Medicaid services for which copayments and/or  
3790 coinsurance are allowable under federal law or regulation, and  
3791 shall set the amount of the copayment and/or coinsurance for each  
3792 of those services at the maximum amount allowable under federal  
3793 law or regulation.

3794 (50) Services provided by the State Department of  
3795 Rehabilitation Services for the care and rehabilitation of persons  
3796 who are deaf and blind, as allowed under waivers from the United  
3797 States Department of Health and Human Services to provide home-  
3798 and community-based services using state funds that are provided  
3799 from the appropriation to the State Department of Rehabilitation  
3800 Services or if funds are voluntarily provided by another agency.

3801 (51) Upon determination of Medicaid eligibility and in  
3802 association with annual redetermination of Medicaid eligibility,  
3803 beneficiaries shall be encouraged to undertake a physical  
3804 examination that will establish a base-line level of health and  
3805 identification of a usual and customary source of care (a medical



3806 home) to aid utilization of disease management tools. This  
3807 physical examination and utilization of these disease management  
3808 tools shall be consistent with current United States Preventive  
3809 Services Task Force or other recognized authority recommendations.

3810 For persons who are determined ineligible for Medicaid, the  
3811 division will provide information and direction for accessing  
3812 medical care and services in the area of their residence.

3813 (52) Notwithstanding any provisions of this article,  
3814 the division may pay enhanced reimbursement fees related to trauma  
3815 care, as determined by the division in conjunction with the State  
3816 Department of Health, using funds appropriated to the State  
3817 Department of Health for trauma care and services and used to  
3818 match federal funds under a cooperative agreement between the  
3819 division and the State Department of Health. The division, in  
3820 conjunction with the State Department of Health, may use grants,  
3821 waivers, demonstrations, or other projects as necessary in the  
3822 development and implementation of this reimbursement program.

3823 (53) Targeted case management services for high-cost  
3824 beneficiaries shall be developed by the division for all services  
3825 under this section.

3826 (54) Adult foster care services pilot program. Social  
3827 and protective services on a pilot program basis in an approved  
3828 foster care facility for vulnerable adults who would otherwise  
3829 need care in a long-term care facility, to be implemented in an  
3830 area of the state with the greatest need for such program, under  
3831 the Medicaid Waivers for the Elderly and Disabled program or an  
3832 assisted living waiver. The division may use grants, waivers,  
3833 demonstrations or other projects as necessary in the development  
3834 and implementation of this adult foster care services pilot  
3835 program.

3836 (55) Therapy services. The plan of care for therapy  
3837 services may be developed to cover a period of treatment for up to  
3838 six (6) months, but in no event shall the plan of care exceed a



3839 six-month period of treatment. The projected period of treatment  
3840 must be indicated on the initial plan of care and must be updated  
3841 with each subsequent revised plan of care. Based on medical  
3842 necessity, the division shall approve certification periods for  
3843 less than or up to six (6) months, but in no event shall the  
3844 certification period exceed the period of treatment indicated on  
3845 the plan of care. The appeal process for any reduction in therapy  
3846 services shall be consistent with the appeal process in federal  
3847 regulations.

3848 (B) Notwithstanding any other provision of this article to  
3849 the contrary, the division shall reduce the rate of reimbursement  
3850 to providers for any service provided under this section by five  
3851 percent (5%) of the allowed amount for that service. However, the  
3852 reduction in the reimbursement rates required by this subsection  
3853 (B) shall not apply to inpatient hospital services, nursing  
3854 facility services, intermediate care facility services,  
3855 psychiatric residential treatment facility services, pharmacy  
3856 services provided under subsection (A)(9) of this section, or any  
3857 service provided by the University of Mississippi Medical Center  
3858 or a state agency, a state facility or a public agency that either  
3859 provides its own state match through intergovernmental transfer or  
3860 certification of funds to the division, or a service for which the  
3861 federal government sets the reimbursement methodology and rate.  
3862 From and after January 1, 2010, the reduction in the reimbursement  
3863 rates required by this subsection (B) shall not apply to  
3864 physicians' services. In addition, the reduction in the  
3865 reimbursement rates required by this subsection (B) shall not  
3866 apply to case management services and home-delivered meals  
3867 provided under the home- and community-based services program for  
3868 the elderly and disabled by a planning and development district  
3869 (PDD). Planning and development districts participating in the  
3870 home- and community-based services program for the elderly and  
3871 disabled as case management providers shall be reimbursed for case



3872 management services at the maximum rate approved by the Centers  
3873 for Medicare and Medicaid Services (CMS).

3874 (C) The division may pay to those providers who participate  
3875 in and accept patient referrals from the division's emergency room  
3876 redirection program a percentage, as determined by the division,  
3877 of savings achieved according to the performance measures and  
3878 reduction of costs required of that program. Federally qualified  
3879 health centers may participate in the emergency room redirection  
3880 program, and the division may pay those centers a percentage of  
3881 any savings to the Medicaid program achieved by the centers'  
3882 accepting patient referrals through the program, as provided in  
3883 this subsection (C).

3884 (D) Notwithstanding any provision of this article, except as  
3885 authorized in the following subsection and in Section 43-13-139,  
3886 neither (a) the limitations on quantity or frequency of use of or  
3887 the fees or charges for any of the care or services available to  
3888 recipients under this section, nor (b) the payments, payment  
3889 methodology as provided below in this subsection (D), or rates of  
3890 reimbursement to providers rendering care or services authorized  
3891 under this section to recipients, may be increased, decreased or  
3892 otherwise changed from the levels in effect on July 1, 1999,  
3893 unless they are authorized by an amendment to this section by the  
3894 Legislature. However, the restriction in this subsection shall  
3895 not prevent the division from changing the payments, payment  
3896 methodology as provided below in this subsection (D), or rates of  
3897 reimbursement to providers without an amendment to this section  
3898 whenever those changes are required by federal law or regulation,  
3899 or whenever those changes are necessary to correct administrative  
3900 errors or omissions in calculating those payments or rates of  
3901 reimbursement. The prohibition on any changes in payment  
3902 methodology provided in this subsection (D) shall apply only to  
3903 payment methodologies used for determining the rates of  
3904 reimbursement for inpatient hospital services, outpatient hospital



3905 services and/or nursing facility services, except as required by  
3906 federal law, and the federally mandated rebasing of rates as  
3907 required by the Centers for Medicare and Medicaid Services (CMS)  
3908 shall not be considered payment methodology for purposes of this  
3909 subsection (D).

3910 (E) Notwithstanding any provision of this article, no new  
3911 groups or categories of recipients and new types of care and  
3912 services may be added without enabling legislation from the  
3913 Mississippi Legislature, except that the division may authorize  
3914 those changes without enabling legislation when the addition of  
3915 recipients or services is ordered by a court of proper authority.

3916 (F) The executive director shall keep the Governor advised  
3917 on a timely basis of the funds available for expenditure and the  
3918 projected expenditures. If current or projected expenditures of  
3919 the division are reasonably anticipated to exceed the amount of  
3920 funds appropriated to the division for any fiscal year, the  
3921 Governor, after consultation with the executive director, shall  
3922 discontinue any or all of the payment of the types of care and  
3923 services as provided in this section that are deemed to be  
3924 optional services under Title XIX of the federal Social Security  
3925 Act, as amended, and when necessary, shall institute any other  
3926 cost containment measures on any program or programs authorized  
3927 under the article to the extent allowed under the federal law  
3928 governing that program or programs. However, the Governor shall  
3929 not be authorized to discontinue or eliminate any service under  
3930 this section that is mandatory under federal law, or to  
3931 discontinue or eliminate, or adjust income limits or resource  
3932 limits for, any eligibility category or group under Section  
3933 43-13-115. Applicable in fiscal year 2010 only, no expenditure  
3934 reductions or cost containments or increases in assessments  
3935 recommended by the Executive Director of the Division of Medicaid  
3936 shall be implemented before February 1, unless the division  
3937 projects a shortfall so great that the entire Health Care





3938 Expendable Fund balance would be reduced to zero. Beginning in  
3939 fiscal year 2010 and in fiscal years thereafter, when Medicaid  
3940 expenditures are projected to exceed funds available for any  
3941 quarter in the fiscal year, the division shall submit the expected  
3942 shortfall information to the PEER Committee, which shall review  
3943 the computations of the division and report its findings to the  
3944 Legislative Budget Office within thirty (30) days of such  
3945 notification by the division, and not later than January 7 in any  
3946 year. If expenditure reductions or cost containments are  
3947 implemented, the Governor may implement a maximum amount of state  
3948 share expenditure reductions to providers, of which hospitals will  
3949 be responsible for twenty-five percent (25%) of provider  
3950 reductions as follows: in fiscal year 2010, the maximum amount  
3951 shall be Twenty-four Million Dollars (\$24,000,000.00); in fiscal  
3952 year 2011, the maximum amount shall be Thirty-two Million Dollars  
3953 (\$32,000,000.00); and in fiscal year 2012 and thereafter, the  
3954 maximum amount shall be Forty Million Dollars (\$40,000,000.00).  
3955 However, instead of implementing cuts, the hospital share shall be  
3956 in the form of an additional assessment not to exceed Ten Million  
3957 Dollars (\$10,000,000.00) as provided in Section  
3958 43-13-145(4)(a)(ii). If Medicaid expenditures are projected to  
3959 exceed the amount of funds appropriated to the division in any  
3960 fiscal year in excess of the expenditure reductions to providers,  
3961 then funds shall be transferred by the State Fiscal Officer from  
3962 the Health Care Trust Fund into the Health Care Expendable Fund  
3963 and to the Governor's Office, Division of Medicaid, from the  
3964 Health Care Expendable Fund, in the amount and at such time as  
3965 requested by the Governor to reconcile the deficit. If the cost  
3966 containment measures described above have been implemented and  
3967 there are insufficient funds in the Health Care Trust Fund to  
3968 reconcile any remaining deficit in any fiscal year, the Governor  
3969 shall institute any other additional cost containment measures on  
3970 any program or programs authorized under this article to the



3971 extent allowed under federal law. Hospitals shall be responsible  
3972 for twenty-five percent (25%) of any additional imposed provider  
3973 cuts. However, instead of implementing hospital expenditure  
3974 reductions, the hospital reductions shall be in the form of an  
3975 additional assessment not to exceed twenty-five percent (25%) of  
3976 provider expenditure reductions as provided in Section  
3977 43-13-145(4) (a) (ii). It is the intent of the Legislature that the  
3978 expenditures of the division during any fiscal year shall not  
3979 exceed the amounts appropriated to the division for that fiscal  
3980 year.

3981 (G) Notwithstanding any other provision of this article, it  
3982 shall be the duty of each nursing facility, intermediate care  
3983 facility for the mentally retarded, psychiatric residential  
3984 treatment facility, and nursing facility for the severely disabled  
3985 that is participating in the Medicaid program to keep and maintain  
3986 books, documents and other records as prescribed by the Division  
3987 of Medicaid in substantiation of its cost reports for a period of  
3988 three (3) years after the date of submission to the Division of  
3989 Medicaid of an original cost report, or three (3) years after the  
3990 date of submission to the Division of Medicaid of an amended cost  
3991 report.

3992 (H) (1) Notwithstanding any other provision of this  
3993 article, the division shall not be authorized to implement any  
3994 managed care program, coordinated care program, coordinated care  
3995 organization, health maintenance organization or similar program  
3996 in which services are paid for on a capitated basis, beyond the  
3997 level, scope or location of the program as it existed on October  
3998 1, 2008, until on or after January 1, 2010. Any managed care  
3999 program or coordinated care program implemented by the division  
4000 under this section shall be limited to a maximum of fifteen  
4001 percent (15%) of all Medicaid beneficiaries, and any Medicaid  
4002 beneficiary who is enrolled in the program shall have an annual  
4003 window of at least thirty (30) days in length during which the



4004 beneficiary may disenroll from the program. In addition, any  
4005 payments made to providers by a managed care organization,  
4006 coordinated care organization, health maintenance organization or  
4007 other similar organization under a managed care program or  
4008 coordinated care program implemented by the division under this  
4009 section shall be considered to be regular Medicaid payments for  
4010 the purposes of calculating Medicare Upper Payment Limits (UPL)  
4011 payments and Disproportionate Share Hospital (DSH) payments to  
4012 hospitals. The division shall apply for any federal waiver or  
4013 waivers necessary to implement a managed care program or  
4014 coordinated care program that meets all of the requirements in  
4015 this paragraph. If the division does not receive a federal waiver  
4016 or waivers that authorizes it to implement a managed care program  
4017 or coordinated care program that meets all of the requirements in  
4018 this paragraph, then the division shall not be authorized to  
4019 implement a managed care program or coordinated care program.

4020 (2) All health maintenance organizations, coordinated  
4021 care organizations or other organizations paid for services on a  
4022 capitated basis by the division under any managed care program or  
4023 coordinated care program implemented by the division under this  
4024 section shall reimburse all providers in those organizations at  
4025 rates no lower than those provided under this section for  
4026 beneficiaries who are not participating in those programs.

4027 (3) No health maintenance organization, coordinated  
4028 care organization or other organization paid for services on a  
4029 capitated basis by the division under any managed care program or  
4030 coordinated care program implemented by the division under this  
4031 section shall require its providers or beneficiaries to use any  
4032 pharmacy that ships, mails or delivers prescription drugs or  
4033 legend drugs or devices.

4034 (4) After a managed care program or coordinated care  
4035 program is implemented by the division under this section, the  
4036 PEER Committee shall conduct a comprehensive performance



4037 evaluation of the managed care program or coordinated care  
4038 program, which shall include, but not be limited to, a  
4039 determination of any cost savings to the division, quality of care  
4040 to the beneficiaries, and access to care by the beneficiaries.  
4041 The PEER Committee shall provide regular reports on the status of  
4042 the managed care program or coordinated care program to the  
4043 members of the Senate Public Health and Welfare Committee and the  
4044 House Medicaid Committee, and shall complete the performance  
4045 evaluation and provide it to the members of those committees not  
4046 later than December 15, 2011. As a condition of participation in  
4047 a managed care program or coordinated care program implemented by  
4048 the division under this section, a provider must agree to provide  
4049 any information that the PEER Committee requests to conduct the  
4050 performance evaluation of the program, and all those providers  
4051 shall fully cooperate with the PEER Committee in any request to  
4052 provide information to the committee.

4053 (I) The division shall develop and publish reimbursement  
4054 rates for each APR-DRG proposed by the division at least equal to  
4055 the prevailing corresponding Medicare DRG rate or a closely  
4056 related Medicare DRG rate, applying to each hospital, the  
4057 applicable federal wage index being used by CMS for the hospital's  
4058 geographic location, but the division shall not implement that  
4059 rate schedule or APR-DRG methodology until after July 1, 2010.  
4060 The PEER Committee shall study the benefits and liabilities of  
4061 implementing an APR-DRG reimbursement rate schedule, and report  
4062 its findings to the members of the Senate Public Health and  
4063 Welfare Committee and the House Medicaid Committee on or before  
4064 December 15, 2009.

4065 (J) There shall be no cuts in inpatient and outpatient  
4066 hospital payments, or allowable days or volumes, as long as the  
4067 hospital assessment provided in Section 43-13-145 is in effect.

4068 (K) This section shall stand repealed on July 1, 2012.



4069           **[If the hospital assessment in the 2009 amendments to Section**  
4070 **43-13-145 does not take effect and/or shall cease to be imposed,**  
4071 **the provisions of Section 43-13-117 shall remain in effect as**  
4072 **existed on June 30, 2009, and this section shall read as follows:]**

4073           43-13-117. Medicaid as authorized by this article shall  
4074 include payment of part or all of the costs, at the discretion of  
4075 the division, with approval of the Governor, of the following  
4076 types of care and services rendered to eligible applicants who  
4077 have been determined to be eligible for that care and services,  
4078 within the limits of state appropriations and federal matching  
4079 funds:

4080                   (1) Inpatient hospital services.

4081                           (a) The division shall allow thirty (30) days of  
4082 inpatient hospital care annually for all Medicaid recipients.  
4083 Medicaid recipients requiring transplants shall not have those  
4084 days included in the transplant case rate count against the  
4085 thirty-day limit for inpatient hospital care. Precertification of  
4086 inpatient days must be obtained as required by the division. The  
4087 division may allow unlimited days in disproportionate hospitals as  
4088 defined by the division for eligible infants and children under  
4089 the age of six (6) years if certified as medically necessary as  
4090 required by the division.

4091                           (b) From and after July 1, 1994, the Executive  
4092 Director of the Division of Medicaid shall amend the Mississippi  
4093 Title XIX Inpatient Hospital Reimbursement Plan to remove the  
4094 occupancy rate penalty from the calculation of the Medicaid  
4095 Capital Cost Component utilized to determine total hospital costs  
4096 allocated to the Medicaid program.

4097                           (c) Hospitals will receive an additional payment  
4098 for the implantable programmable baclofen drug pump used to treat  
4099 spasticity that is implanted on an inpatient basis. The payment  
4100 pursuant to written invoice will be in addition to the facility's  
4101 per diem reimbursement and will represent a reduction of costs on



4102 the facility's annual cost report, and shall not exceed Ten  
4103 Thousand Dollars (\$10,000.00) per year per recipient.

4104 (2) Outpatient hospital services.

4105 (a) Emergency services. The division shall allow  
4106 six (6) medically necessary emergency room visits per beneficiary  
4107 per fiscal year.

4108 (b) Other outpatient hospital services. The  
4109 division shall allow benefits for other medically necessary  
4110 outpatient hospital services (such as chemotherapy, radiation,  
4111 surgery and therapy). Where the same services are reimbursed as  
4112 clinic services, the division may revise the rate or methodology  
4113 of outpatient reimbursement to maintain consistency, efficiency,  
4114 economy and quality of care.

4115 (3) Laboratory and x-ray services.

4116 (4) Nursing facility services.

4117 (a) The division shall make full payment to  
4118 nursing facilities for each day, not exceeding fifty-two (52) days  
4119 per year, that a patient is absent from the facility on home  
4120 leave. Payment may be made for the following home leave days in  
4121 addition to the fifty-two-day limitation: Christmas, the day  
4122 before Christmas, the day after Christmas, Thanksgiving, the day  
4123 before Thanksgiving and the day after Thanksgiving.

4124 (b) From and after July 1, 1997, the division  
4125 shall implement the integrated case-mix payment and quality  
4126 monitoring system, which includes the fair rental system for  
4127 property costs and in which recapture of depreciation is  
4128 eliminated. The division may reduce the payment for hospital  
4129 leave and therapeutic home leave days to the lower of the case-mix  
4130 category as computed for the resident on leave using the  
4131 assessment being utilized for payment at that point in time, or a  
4132 case-mix score of 1.000 for nursing facilities, and shall compute  
4133 case-mix scores of residents so that only services provided at the



4134 nursing facility are considered in calculating a facility's per  
4135 diem.

4136 (c) From and after July 1, 1997, all state-owned  
4137 nursing facilities shall be reimbursed on a full reasonable cost  
4138 basis.

4139 (d) When a facility of a category that does not  
4140 require a certificate of need for construction and that could not  
4141 be eligible for Medicaid reimbursement is constructed to nursing  
4142 facility specifications for licensure and certification, and the  
4143 facility is subsequently converted to a nursing facility under a  
4144 certificate of need that authorizes conversion only and the  
4145 applicant for the certificate of need was assessed an application  
4146 review fee based on capital expenditures incurred in constructing  
4147 the facility, the division shall allow reimbursement for capital  
4148 expenditures necessary for construction of the facility that were  
4149 incurred within the twenty-four (24) consecutive calendar months  
4150 immediately preceding the date that the certificate of need  
4151 authorizing the conversion was issued, to the same extent that  
4152 reimbursement would be allowed for construction of a new nursing  
4153 facility under a certificate of need that authorizes that  
4154 construction. The reimbursement authorized in this subparagraph  
4155 (d) may be made only to facilities the construction of which was  
4156 completed after June 30, 1989. Before the division shall be  
4157 authorized to make the reimbursement authorized in this  
4158 subparagraph (d), the division first must have received approval  
4159 from the Centers for Medicare and Medicaid Services (CMS) of the  
4160 change in the state Medicaid plan providing for the reimbursement.

4161 (e) The division shall develop and implement, not  
4162 later than January 1, 2001, a case-mix payment add-on determined  
4163 by time studies and other valid statistical data that will  
4164 reimburse a nursing facility for the additional cost of caring for  
4165 a resident who has a diagnosis of Alzheimer's or other related  
4166 dementia and exhibits symptoms that require special care. Any



4167 such case-mix add-on payment shall be supported by a determination  
4168 of additional cost. The division shall also develop and implement  
4169 as part of the fair rental reimbursement system for nursing  
4170 facility beds, an Alzheimer's resident bed depreciation enhanced  
4171 reimbursement system that will provide an incentive to encourage  
4172 nursing facilities to convert or construct beds for residents with  
4173 Alzheimer's or other related dementia.

4174 (f) The division shall develop and implement an  
4175 assessment process for long-term care services. The division may  
4176 provide the assessment and related functions directly or through  
4177 contract with the area agencies on aging.

4178 The division shall apply for necessary federal waivers to  
4179 assure that additional services providing alternatives to nursing  
4180 facility care are made available to applicants for nursing  
4181 facility care.

4182 (5) Periodic screening and diagnostic services for  
4183 individuals under age twenty-one (21) years as are needed to  
4184 identify physical and mental defects and to provide health care  
4185 treatment and other measures designed to correct or ameliorate  
4186 defects and physical and mental illness and conditions discovered  
4187 by the screening services, regardless of whether these services  
4188 are included in the state plan. The division may include in its  
4189 periodic screening and diagnostic program those discretionary  
4190 services authorized under the federal regulations adopted to  
4191 implement Title XIX of the federal Social Security Act, as  
4192 amended. The division, in obtaining physical therapy services,  
4193 occupational therapy services, and services for individuals with  
4194 speech, hearing and language disorders, may enter into a  
4195 cooperative agreement with the State Department of Education for  
4196 the provision of those services to handicapped students by public  
4197 school districts using state funds that are provided from the  
4198 appropriation to the Department of Education to obtain federal  
4199 matching funds through the division. The division, in obtaining





4200 medical and psychological evaluations for children in the custody  
4201 of the Mississippi Department of Human Services may enter into a  
4202 cooperative agreement with the Mississippi Department of Human  
4203 Services for the provision of those services using state funds  
4204 that are provided from the appropriation to the Department of  
4205 Human Services to obtain federal matching funds through the  
4206 division.

4207           (6) Physician's services. The division shall allow  
4208 twelve (12) physician visits annually. All fees for physicians'  
4209 services that are covered only by Medicaid shall be reimbursed at  
4210 ninety percent (90%) of the rate established on January 1, 1999,  
4211 and as may be adjusted each July thereafter, under Medicare (Title  
4212 XVIII of the federal Social Security Act, as amended). The  
4213 division may develop and implement a different reimbursement model  
4214 or schedule for physician's services provided by physicians based  
4215 at an academic health care center and by physicians at rural  
4216 health centers that are associated with an academic health care  
4217 center.

4218           (7) (a) Home health services for eligible persons, not  
4219 to exceed in cost the prevailing cost of nursing facility  
4220 services, not to exceed twenty-five (25) visits per year. All  
4221 home health visits must be precertified as required by the  
4222 division.

4223           (b) [Repealed]

4224           (8) Emergency medical transportation services. On  
4225 January 1, 1994, emergency medical transportation services shall  
4226 be reimbursed at seventy percent (70%) of the rate established  
4227 under Medicare (Title XVIII of the federal Social Security Act, as  
4228 amended). "Emergency medical transportation services" shall mean,  
4229 but shall not be limited to, the following services by a properly  
4230 permitted ambulance operated by a properly licensed provider in  
4231 accordance with the Emergency Medical Services Act of 1974  
4232 (Section 41-59-1 et seq.): (i) basic life support, (ii) advanced



4233 life support, (iii) mileage, (iv) oxygen, (v) intravenous fluids,  
4234 (vi) disposable supplies, (vii) similar services.

4235 (9) (a) Legend and other drugs as may be determined by  
4236 the division.

4237 The division shall establish a mandatory preferred drug list.  
4238 Drugs not on the mandatory preferred drug list shall be made  
4239 available by utilizing prior authorization procedures established  
4240 by the division.

4241 The division may seek to establish relationships with other  
4242 states in order to lower acquisition costs of prescription drugs  
4243 to include single source and innovator multiple source drugs or  
4244 generic drugs. In addition, if allowed by federal law or  
4245 regulation, the division may seek to establish relationships with  
4246 and negotiate with other countries to facilitate the acquisition  
4247 of prescription drugs to include single source and innovator  
4248 multiple source drugs or generic drugs, if that will lower the  
4249 acquisition costs of those prescription drugs.

4250 The division shall allow for a combination of prescriptions  
4251 for single source and innovator multiple source drugs and generic  
4252 drugs to meet the needs of the beneficiaries, not to exceed five  
4253 (5) prescriptions per month for each noninstitutionalized Medicaid  
4254 beneficiary, with not more than two (2) of those prescriptions  
4255 being for single source or innovator multiple source drugs.

4256 The executive director may approve specific maintenance drugs  
4257 for beneficiaries with certain medical conditions, which may be  
4258 prescribed and dispensed in three-month supply increments.

4259 Drugs prescribed for a resident of a psychiatric residential  
4260 treatment facility must be provided in true unit doses when  
4261 available. The division may require that drugs not covered by  
4262 Medicare Part D for a resident of a long-term care facility be  
4263 provided in true unit doses when available. Those drugs that were  
4264 originally billed to the division but are not used by a resident  
4265 in any of those facilities shall be returned to the billing



4266 pharmacy for credit to the division, in accordance with the  
4267 guidelines of the State Board of Pharmacy and any requirements of  
4268 federal law and regulation. Drugs shall be dispensed to a  
4269 recipient and only one (1) dispensing fee per month may be  
4270 charged. The division shall develop a methodology for reimbursing  
4271 for restocked drugs, which shall include a restock fee as  
4272 determined by the division not exceeding Seven Dollars and  
4273 Eighty-two Cents (\$7.82).

4274 The voluntary preferred drug list shall be expanded to  
4275 function in the interim in order to have a manageable prior  
4276 authorization system, thereby minimizing disruption of service to  
4277 beneficiaries.

4278 Except for those specific maintenance drugs approved by the  
4279 executive director, the division shall not reimburse for any  
4280 portion of a prescription that exceeds a thirty-one-day supply of  
4281 the drug based on the daily dosage.

4282 The division shall develop and implement a program of payment  
4283 for additional pharmacist services, with payment to be based on  
4284 demonstrated savings, but in no case shall the total payment  
4285 exceed twice the amount of the dispensing fee.

4286 All claims for drugs for dually eligible Medicare/Medicaid  
4287 beneficiaries that are paid for by Medicare must be submitted to  
4288 Medicare for payment before they may be processed by the  
4289 division's online payment system.

4290 The division shall develop a pharmacy policy in which drugs  
4291 in tamper-resistant packaging that are prescribed for a resident  
4292 of a nursing facility but are not dispensed to the resident shall  
4293 be returned to the pharmacy and not billed to Medicaid, in  
4294 accordance with guidelines of the State Board of Pharmacy.

4295 The division shall develop and implement a method or methods  
4296 by which the division will provide on a regular basis to Medicaid  
4297 providers who are authorized to prescribe drugs, information about  
4298 the costs to the Medicaid program of single source drugs and



4299 innovator multiple source drugs, and information about other drugs  
4300 that may be prescribed as alternatives to those single source  
4301 drugs and innovator multiple source drugs and the costs to the  
4302 Medicaid program of those alternative drugs.

4303         Notwithstanding any law or regulation, information obtained  
4304 or maintained by the division regarding the prescription drug  
4305 program, including trade secrets and manufacturer or labeler  
4306 pricing, is confidential and not subject to disclosure except to  
4307 other state agencies.

4308                 (b) Payment by the division for covered  
4309 multisource drugs shall be limited to the lower of the upper  
4310 limits established and published by the Centers for Medicare and  
4311 Medicaid Services (CMS) plus a dispensing fee, or the estimated  
4312 acquisition cost (EAC) as determined by the division, plus a  
4313 dispensing fee, or the providers' usual and customary charge to  
4314 the general public.

4315         Payment for other covered drugs, other than multisource drugs  
4316 with CMS upper limits, shall not exceed the lower of the estimated  
4317 acquisition cost as determined by the division, plus a dispensing  
4318 fee or the providers' usual and customary charge to the general  
4319 public.

4320         Payment for nonlegend or over-the-counter drugs covered by  
4321 the division shall be reimbursed at the lower of the division's  
4322 estimated shelf price or the providers' usual and customary charge  
4323 to the general public.

4324         The dispensing fee for each new or refill prescription,  
4325 including nonlegend or over-the-counter drugs covered by the  
4326 division, shall be not less than Three Dollars and Ninety-one  
4327 Cents (\$3.91), as determined by the division.

4328         The division shall not reimburse for single source or  
4329 innovator multiple source drugs if there are equally effective  
4330 generic equivalents available and if the generic equivalents are  
4331 the least expensive.



4332           It is the intent of the Legislature that the pharmacists  
4333 providers be reimbursed for the reasonable costs of filling and  
4334 dispensing prescriptions for Medicaid beneficiaries.

4335           (10) (a) Dental care that is an adjunct to treatment  
4336 of an acute medical or surgical condition; services of oral  
4337 surgeons and dentists in connection with surgery related to the  
4338 jaw or any structure contiguous to the jaw or the reduction of any  
4339 fracture of the jaw or any facial bone; and emergency dental  
4340 extractions and treatment related thereto. On July 1, 2007, fees  
4341 for dental care and surgery under authority of this paragraph (10)  
4342 shall be reimbursed as provided in subparagraph (b). It is the  
4343 intent of the Legislature that this rate revision for dental  
4344 services will be an incentive designed to increase the number of  
4345 dentists who actively provide Medicaid services. This dental  
4346 services rate revision shall be known as the "James Russell Dumas  
4347 Medicaid Dental Incentive Program."

4348           The division shall annually determine the effect of this  
4349 incentive by evaluating the number of dentists who are Medicaid  
4350 providers, the number who and the degree to which they are  
4351 actively billing Medicaid, the geographic trends of where dentists  
4352 are offering what types of Medicaid services and other statistics  
4353 pertinent to the goals of this legislative intent. This data  
4354 shall be presented to the Chair of the Senate Public Health and  
4355 Welfare Committee and the Chair of the House Medicaid Committee.

4356           (b) The Division of Medicaid shall establish a fee  
4357 schedule, to be effective from and after July 1, 2007, for dental  
4358 services. The schedule shall provide for a fee for each dental  
4359 service that is equal to a percentile of normal and customary  
4360 private provider fees, as defined by the Ingenix Customized Fee  
4361 Analyzer Report, which percentile shall be determined by the  
4362 division. The schedule shall be reviewed annually by the division  
4363 and dental fees shall be adjusted to reflect the percentile  
4364 determined by the division.



4365 (c) For fiscal year 2008, the amount of state  
4366 funds appropriated for reimbursement for dental care and surgery  
4367 shall be increased by ten percent (10%) of the amount of state  
4368 fund expenditures for that purpose for fiscal year 2007. For each  
4369 of fiscal years 2009 and 2010, the amount of state funds  
4370 appropriated for reimbursement for dental care and surgery shall  
4371 be increased by ten percent (10%) of the amount of state fund  
4372 expenditures for that purpose for the preceding fiscal year.

4373 (d) The division shall establish an annual benefit  
4374 limit of Two Thousand Five Hundred Dollars (\$2,500.00) in dental  
4375 expenditures per Medicaid-eligible recipient; however, a recipient  
4376 may exceed the annual limit on dental expenditures provided in  
4377 this paragraph with prior approval of the division.

4378 (e) The division shall include dental services as  
4379 a necessary component of overall health services provided to  
4380 children who are eligible for services.

4381 (f) This paragraph (10) shall stand repealed on  
4382 July 1, 2010.

4383 (11) Eyeglasses for all Medicaid beneficiaries who have  
4384 (a) had surgery on the eyeball or ocular muscle that results in a  
4385 vision change for which eyeglasses or a change in eyeglasses is  
4386 medically indicated within six (6) months of the surgery and is in  
4387 accordance with policies established by the division, or (b) one  
4388 (1) pair every five (5) years and in accordance with policies  
4389 established by the division. In either instance, the eyeglasses  
4390 must be prescribed by a physician skilled in diseases of the eye  
4391 or an optometrist, whichever the beneficiary may select.

4392 (12) Intermediate care facility services.

4393 (a) The division shall make full payment to all  
4394 intermediate care facilities for the mentally retarded for each  
4395 day, not exceeding eighty-four (84) days per year, that a patient  
4396 is absent from the facility on home leave. Payment may be made  
4397 for the following home leave days in addition to the



4398 eighty-four-day limitation: Christmas, the day before Christmas,  
4399 the day after Christmas, Thanksgiving, the day before Thanksgiving  
4400 and the day after Thanksgiving.

4401 (b) All state-owned intermediate care facilities  
4402 for the mentally retarded shall be reimbursed on a full reasonable  
4403 cost basis.

4404 (13) Family planning services, including drugs,  
4405 supplies and devices, when those services are under the  
4406 supervision of a physician or nurse practitioner.

4407 (14) Clinic services. Such diagnostic, preventive,  
4408 therapeutic, rehabilitative or palliative services furnished to an  
4409 outpatient by or under the supervision of a physician or dentist  
4410 in a facility that is not a part of a hospital but that is  
4411 organized and operated to provide medical care to outpatients.  
4412 Clinic services shall include any services reimbursed as  
4413 outpatient hospital services that may be rendered in such a  
4414 facility, including those that become so after July 1, 1991. On  
4415 July 1, 1999, all fees for physicians' services reimbursed under  
4416 authority of this paragraph (14) shall be reimbursed at ninety  
4417 percent (90%) of the rate established on January 1, 1999, and as  
4418 may be adjusted each July thereafter, under Medicare (Title XVIII  
4419 of the federal Social Security Act, as amended). The division may  
4420 develop and implement a different reimbursement model or schedule  
4421 for physician's services provided by physicians based at an  
4422 academic health care center and by physicians at rural health  
4423 centers that are associated with an academic health care center.

4424 (15) Home- and community-based services for the elderly  
4425 and disabled, as provided under Title XIX of the federal Social  
4426 Security Act, as amended, under waivers, subject to the  
4427 availability of funds specifically appropriated for that purpose  
4428 by the Legislature.

4429 (16) Mental health services. Approved therapeutic and  
4430 case management services (a) provided by an approved regional



4431 mental health/intellectual disability center established under  
4432 Sections 41-19-31 through 41-19-39, or by another community mental  
4433 health service provider meeting the requirements of the Department  
4434 of Mental Health to be an approved mental health/intellectual  
4435 disability center if determined necessary by the Department of  
4436 Mental Health, using state funds that are provided from the  
4437 appropriation to the State Department of Mental Health and/or  
4438 funds transferred to the department by a political subdivision or  
4439 instrumentality of the state and used to match federal funds under  
4440 a cooperative agreement between the division and the department,  
4441 or (b) provided by a facility that is certified by the State  
4442 Department of Mental Health to provide therapeutic and case  
4443 management services, to be reimbursed on a fee for service basis,  
4444 or (c) provided in the community by a facility or program operated  
4445 by the Department of Mental Health. Any such services provided by  
4446 a facility described in subparagraph (b) must have the prior  
4447 approval of the division to be reimbursable under this section.  
4448 After June 30, 1997, mental health services provided by regional  
4449 mental health/intellectual disability centers established under  
4450 Sections 41-19-31 through 41-19-39, or by hospitals as defined in  
4451 Section 41-9-3(a) and/or their subsidiaries and divisions, or by  
4452 psychiatric residential treatment facilities as defined in Section  
4453 43-11-1, or by another community mental health service provider  
4454 meeting the requirements of the Department of Mental Health to be  
4455 an approved mental health/intellectual disability center if  
4456 determined necessary by the Department of Mental Health, shall not  
4457 be included in or provided under any capitated managed care pilot  
4458 program provided for under paragraph (24) of this section.

4459 (17) Durable medical equipment services and medical  
4460 supplies. Precertification of durable medical equipment and  
4461 medical supplies must be obtained as required by the division.  
4462 The Division of Medicaid may require durable medical equipment





4463 providers to obtain a surety bond in the amount and to the  
4464 specifications as established by the Balanced Budget Act of 1997.

4465 (18) (a) Notwithstanding any other provision of this  
4466 section to the contrary, the division shall make additional  
4467 reimbursement to hospitals that serve a disproportionate share of  
4468 low-income patients and that meet the federal requirements for  
4469 those payments as provided in Section 1923 of the federal Social  
4470 Security Act and any applicable regulations. It is the intent of  
4471 the Legislature that the division shall draw down all available  
4472 federal funds allotted to the state for disproportionate share  
4473 hospitals. However, from and after January 1, 1999, no public  
4474 hospital shall participate in the Medicaid disproportionate share  
4475 program unless the public hospital participates in an  
4476 intergovernmental transfer program as provided in Section 1903 of  
4477 the federal Social Security Act and any applicable regulations.

4478 (b) The division shall establish a Medicare Upper  
4479 Payment Limits Program, as defined in Section 1902(a)(30) of the  
4480 federal Social Security Act and any applicable federal  
4481 regulations, for hospitals, and may establish a Medicare Upper  
4482 Payment Limits Program for nursing facilities. The division shall  
4483 assess each hospital and, if the program is established for  
4484 nursing facilities, shall assess each nursing facility, based on  
4485 Medicaid utilization or other appropriate method consistent with  
4486 federal regulations. The assessment will remain in effect as long  
4487 as the state participates in the Medicare Upper Payment Limits  
4488 Program. The division shall make additional reimbursement to  
4489 hospitals and, if the program is established for nursing  
4490 facilities, shall make additional reimbursement to nursing  
4491 facilities, for the Medicare Upper Payment Limits, as defined in  
4492 Section 1902(a)(30) of the federal Social Security Act and any  
4493 applicable federal regulations.

4494 (19) (a) Perinatal risk management services. The  
4495 division shall promulgate regulations to be effective from and



4496 after October 1, 1988, to establish a comprehensive perinatal  
4497 system for risk assessment of all pregnant and infant Medicaid  
4498 recipients and for management, education and follow-up for those  
4499 who are determined to be at risk. Services to be performed  
4500 include case management, nutrition assessment/counseling,  
4501 psychosocial assessment/counseling and health education.

4502 (b) Early intervention system services. The  
4503 division shall cooperate with the State Department of Health,  
4504 acting as lead agency, in the development and implementation of a  
4505 statewide system of delivery of early intervention services, under  
4506 Part C of the Individuals with Disabilities Education Act (IDEA).  
4507 The State Department of Health shall certify annually in writing  
4508 to the executive director of the division the dollar amount of  
4509 state early intervention funds available that will be utilized as  
4510 a certified match for Medicaid matching funds. Those funds then  
4511 shall be used to provide expanded targeted case management  
4512 services for Medicaid eligible children with special needs who are  
4513 eligible for the state's early intervention system.

4514 Qualifications for persons providing service coordination shall be  
4515 determined by the State Department of Health and the Division of  
4516 Medicaid.

4517 (20) Home- and community-based services for physically  
4518 disabled approved services as allowed by a waiver from the United  
4519 States Department of Health and Human Services for home- and  
4520 community-based services for physically disabled people using  
4521 state funds that are provided from the appropriation to the State  
4522 Department of Rehabilitation Services and used to match federal  
4523 funds under a cooperative agreement between the division and the  
4524 department, provided that funds for these services are  
4525 specifically appropriated to the Department of Rehabilitation  
4526 Services.

4527 (21) Nurse practitioner services. Services furnished  
4528 by a registered nurse who is licensed and certified by the



4529 Mississippi Board of Nursing as a nurse practitioner, including,  
4530 but not limited to, nurse anesthetists, nurse midwives, family  
4531 nurse practitioners, family planning nurse practitioners,  
4532 pediatric nurse practitioners, obstetrics-gynecology nurse  
4533 practitioners and neonatal nurse practitioners, under regulations  
4534 adopted by the division. Reimbursement for those services shall  
4535 not exceed ninety percent (90%) of the reimbursement rate for  
4536 comparable services rendered by a physician.

4537           (22) Ambulatory services delivered in federally  
4538 qualified health centers, rural health centers and clinics of the  
4539 local health departments of the State Department of Health for  
4540 individuals eligible for Medicaid under this article based on  
4541 reasonable costs as determined by the division.

4542           (23) Inpatient psychiatric services. Inpatient  
4543 psychiatric services to be determined by the division for  
4544 recipients under age twenty-one (21) that are provided under the  
4545 direction of a physician in an inpatient program in a licensed  
4546 acute care psychiatric facility or in a licensed psychiatric  
4547 residential treatment facility, before the recipient reaches age  
4548 twenty-one (21) or, if the recipient was receiving the services  
4549 immediately before he or she reached age twenty-one (21), before  
4550 the earlier of the date he or she no longer requires the services  
4551 or the date he or she reaches age twenty-two (22), as provided by  
4552 federal regulations. Precertification of inpatient days and  
4553 residential treatment days must be obtained as required by the  
4554 division.

4555           (24) [Deleted]

4556           (25) [Deleted]

4557           (26) Hospice care. As used in this paragraph, the term  
4558 "hospice care" means a coordinated program of active professional  
4559 medical attention within the home and outpatient and inpatient  
4560 care that treats the terminally ill patient and family as a unit,  
4561 employing a medically directed interdisciplinary team. The



4562 program provides relief of severe pain or other physical symptoms  
4563 and supportive care to meet the special needs arising out of  
4564 physical, psychological, spiritual, social and economic stresses  
4565 that are experienced during the final stages of illness and during  
4566 dying and bereavement and meets the Medicare requirements for  
4567 participation as a hospice as provided in federal regulations.

4568 (27) Group health plan premiums and cost sharing if it  
4569 is cost-effective as defined by the United States Secretary of  
4570 Health and Human Services.

4571 (28) Other health insurance premiums that are  
4572 cost-effective as defined by the United States Secretary of Health  
4573 and Human Services. Medicare eligible must have Medicare Part B  
4574 before other insurance premiums can be paid.

4575 (29) The Division of Medicaid may apply for a waiver  
4576 from the United States Department of Health and Human Services for  
4577 home- and community-based services for developmentally disabled  
4578 people using state funds that are provided from the appropriation  
4579 to the State Department of Mental Health and/or funds transferred  
4580 to the department by a political subdivision or instrumentality of  
4581 the state and used to match federal funds under a cooperative  
4582 agreement between the division and the department, provided that  
4583 funds for these services are specifically appropriated to the  
4584 Department of Mental Health and/or transferred to the department  
4585 by a political subdivision or instrumentality of the state.

4586 (30) Pediatric skilled nursing services for eligible  
4587 persons under twenty-one (21) years of age.

4588 (31) Targeted case management services for children  
4589 with special needs, under waivers from the United States  
4590 Department of Health and Human Services, using state funds that  
4591 are provided from the appropriation to the Mississippi Department  
4592 of Human Services and used to match federal funds under a  
4593 cooperative agreement between the division and the department.



4594                   (32) Care and services provided in Christian Science  
4595 Sanatoria listed and certified by the Commission for Accreditation  
4596 of Christian Science Nursing Organizations/Facilities, Inc.,  
4597 rendered in connection with treatment by prayer or spiritual means  
4598 to the extent that those services are subject to reimbursement  
4599 under Section 1903 of the federal Social Security Act.

4600                   (33) Podiatrist services.

4601                   (34) Assisted living services as provided through home-  
4602 and community-based services under Title XIX of the federal Social  
4603 Security Act, as amended, subject to the availability of funds  
4604 specifically appropriated for that purpose by the Legislature.

4605                   (35) Services and activities authorized in Sections  
4606 43-27-101 and 43-27-103, using state funds that are provided from  
4607 the appropriation to the Mississippi Department of Human Services  
4608 and used to match federal funds under a cooperative agreement  
4609 between the division and the department.

4610                   (36) Nonemergency transportation services for  
4611 Medicaid-eligible persons, to be provided by the Division of  
4612 Medicaid. The division may contract with additional entities to  
4613 administer nonemergency transportation services as it deems  
4614 necessary. All providers shall have a valid driver's license,  
4615 vehicle inspection sticker, valid vehicle license tags and a  
4616 standard liability insurance policy covering the vehicle. The  
4617 division may pay providers a flat fee based on mileage tiers, or  
4618 in the alternative, may reimburse on actual miles traveled. The  
4619 division may apply to the Center for Medicare and Medicaid  
4620 Services (CMS) for a waiver to draw federal matching funds for  
4621 nonemergency transportation services as a covered service instead  
4622 of an administrative cost. The PEER Committee shall conduct a  
4623 performance evaluation of the nonemergency transportation program  
4624 to evaluate the administration of the program and the providers of  
4625 transportation services to determine the most cost-effective ways  
4626 of providing nonemergency transportation services to the patients



4627 served under the program. The performance evaluation shall be  
4628 completed and provided to the members of the Senate Public Health  
4629 and Welfare Committee and the House Medicaid Committee not later  
4630 than January 15, 2008.

4631 (37) [Deleted]

4632 (38) Chiropractic services. A chiropractor's manual  
4633 manipulation of the spine to correct a subluxation, if x-ray  
4634 demonstrates that a subluxation exists and if the subluxation has  
4635 resulted in a neuromusculoskeletal condition for which  
4636 manipulation is appropriate treatment, and related spinal x-rays  
4637 performed to document these conditions. Reimbursement for  
4638 chiropractic services shall not exceed Seven Hundred Dollars  
4639 (\$700.00) per year per beneficiary.

4640 (39) Dually eligible Medicare/Medicaid beneficiaries.  
4641 The division shall pay the Medicare deductible and coinsurance  
4642 amounts for services available under Medicare, as determined by  
4643 the division.

4644 (40) [Deleted]

4645 (41) Services provided by the State Department of  
4646 Rehabilitation Services for the care and rehabilitation of persons  
4647 with spinal cord injuries or traumatic brain injuries, as allowed  
4648 under waivers from the United States Department of Health and  
4649 Human Services, using up to seventy-five percent (75%) of the  
4650 funds that are appropriated to the Department of Rehabilitation  
4651 Services from the Spinal Cord and Head Injury Trust Fund  
4652 established under Section 37-33-261 and used to match federal  
4653 funds under a cooperative agreement between the division and the  
4654 department.

4655 (42) Notwithstanding any other provision in this  
4656 article to the contrary, the division may develop a population  
4657 health management program for women and children health services  
4658 through the age of one (1) year. This program is primarily for  
4659 obstetrical care associated with low birth weight and pre-term



4660 babies. The division may apply to the federal Centers for  
4661 Medicare and Medicaid Services (CMS) for a Section 1115 waiver or  
4662 any other waivers that may enhance the program. In order to  
4663 effect cost savings, the division may develop a revised payment  
4664 methodology that may include at-risk capitated payments, and may  
4665 require member participation in accordance with the terms and  
4666 conditions of an approved federal waiver.

4667 (43) The division shall provide reimbursement,  
4668 according to a payment schedule developed by the division, for  
4669 smoking cessation medications for pregnant women during their  
4670 pregnancy and other Medicaid-eligible women who are of  
4671 child-bearing age.

4672 (44) Nursing facility services for the severely  
4673 disabled.

4674 (a) Severe disabilities include, but are not  
4675 limited to, spinal cord injuries, closed head injuries and  
4676 ventilator dependent patients.

4677 (b) Those services must be provided in a long-term  
4678 care nursing facility dedicated to the care and treatment of  
4679 persons with severe disabilities, and shall be reimbursed as a  
4680 separate category of nursing facilities.

4681 (45) Physician assistant services. Services furnished  
4682 by a physician assistant who is licensed by the State Board of  
4683 Medical Licensure and is practicing with physician supervision  
4684 under regulations adopted by the board, under regulations adopted  
4685 by the division. Reimbursement for those services shall not  
4686 exceed ninety percent (90%) of the reimbursement rate for  
4687 comparable services rendered by a physician.

4688 (46) The division shall make application to the federal  
4689 Centers for Medicare and Medicaid Services (CMS) for a waiver to  
4690 develop and provide services for children with serious emotional  
4691 disturbances as defined in Section 43-14-1(1), which may include  
4692 home- and community-based services, case management services or



4693 managed care services through mental health providers certified by  
4694 the Department of Mental Health. The division may implement and  
4695 provide services under this waived program only if funds for  
4696 these services are specifically appropriated for this purpose by  
4697 the Legislature, or if funds are voluntarily provided by affected  
4698 agencies.

4699           (47) (a) Notwithstanding any other provision in this  
4700 article to the contrary, the division may develop and implement  
4701 disease management programs for individuals with high-cost chronic  
4702 diseases and conditions, including the use of grants, waivers,  
4703 demonstrations or other projects as necessary.

4704           (b) Participation in any disease management  
4705 program implemented under this paragraph (47) is optional with the  
4706 individual. An individual must affirmatively elect to participate  
4707 in the disease management program in order to participate, and may  
4708 elect to discontinue participation in the program at any time.

4709           (48) Pediatric long-term acute care hospital services.

4710           (a) Pediatric long-term acute care hospital  
4711 services means services provided to eligible persons under  
4712 twenty-one (21) years of age by a freestanding Medicare-certified  
4713 hospital that has an average length of inpatient stay greater than  
4714 twenty-five (25) days and that is primarily engaged in providing  
4715 chronic or long-term medical care to persons under twenty-one (21)  
4716 years of age.

4717           (b) The services under this paragraph (48) shall  
4718 be reimbursed as a separate category of hospital services.

4719           (49) The division shall establish copayments and/or  
4720 coinsurance for all Medicaid services for which copayments and/or  
4721 coinsurance are allowable under federal law or regulation, and  
4722 shall set the amount of the copayment and/or coinsurance for each  
4723 of those services at the maximum amount allowable under federal  
4724 law or regulation.





4725                   (50) Services provided by the State Department of  
4726 Rehabilitation Services for the care and rehabilitation of persons  
4727 who are deaf and blind, as allowed under waivers from the United  
4728 States Department of Health and Human Services to provide home-  
4729 and community-based services using state funds that are provided  
4730 from the appropriation to the State Department of Rehabilitation  
4731 Services or if funds are voluntarily provided by another agency.

4732                   (51) Upon determination of Medicaid eligibility and in  
4733 association with annual redetermination of Medicaid eligibility,  
4734 beneficiaries shall be encouraged to undertake a physical  
4735 examination that will establish a base-line level of health and  
4736 identification of a usual and customary source of care (a medical  
4737 home) to aid utilization of disease management tools. This  
4738 physical examination and utilization of these disease management  
4739 tools shall be consistent with current United States Preventive  
4740 Services Task Force or other recognized authority recommendations.

4741                   For persons who are determined ineligible for Medicaid, the  
4742 division will provide information and direction for accessing  
4743 medical care and services in the area of their residence.

4744                   (52) Notwithstanding any provisions of this article,  
4745 the division may pay enhanced reimbursement fees related to trauma  
4746 care, as determined by the division in conjunction with the State  
4747 Department of Health, using funds appropriated to the State  
4748 Department of Health for trauma care and services and used to  
4749 match federal funds under a cooperative agreement between the  
4750 division and the State Department of Health. The division, in  
4751 conjunction with the State Department of Health, may use grants,  
4752 waivers, demonstrations, or other projects as necessary in the  
4753 development and implementation of this reimbursement program.

4754                   (53) Targeted case management services for high-cost  
4755 beneficiaries shall be developed by the division for all services  
4756 under this section.



4757           (54) Adult foster care services pilot program. Social  
4758 and protective services on a pilot program basis in an approved  
4759 foster care facility for vulnerable adults who would otherwise  
4760 need care in a long-term care facility, to be implemented in an  
4761 area of the state with the greatest need for such program, under  
4762 the Medicaid Waivers for the Elderly and Disabled program or an  
4763 assisted living waiver. The division may use grants, waivers,  
4764 demonstrations or other projects as necessary in the development  
4765 and implementation of this adult foster care services pilot  
4766 program.

4767           (55) Therapy services. The plan of care for therapy  
4768 services may be developed to cover a period of treatment for up to  
4769 six (6) months, but in no event shall the plan of care exceed a  
4770 six-month period of treatment. The projected period of treatment  
4771 must be indicated on the initial plan of care and must be updated  
4772 with each subsequent revised plan of care. Based on medical  
4773 necessity, the division shall approve certification periods for  
4774 less than or up to six (6) months, but in no event shall the  
4775 certification period exceed the period of treatment indicated on  
4776 the plan of care. The appeal process for any reduction in therapy  
4777 services shall be consistent with the appeal process in federal  
4778 regulations.

4779           Notwithstanding any other provision of this article to the  
4780 contrary, the division shall reduce the rate of reimbursement to  
4781 providers for any service provided under this section by five  
4782 percent (5%) of the allowed amount for that service. However, the  
4783 reduction in the reimbursement rates required by this paragraph  
4784 shall not apply to inpatient hospital services, nursing facility  
4785 services, intermediate care facility services, psychiatric  
4786 residential treatment facility services, pharmacy services  
4787 provided under paragraph (9) of this section, or any service  
4788 provided by the University of Mississippi Medical Center or a  
4789 state agency, a state facility or a public agency that either



4790 provides its own state match through intergovernmental transfer or  
4791 certification of funds to the division, or a service for which the  
4792 federal government sets the reimbursement methodology and rate.  
4793 In addition, the reduction in the reimbursement rates required by  
4794 this paragraph shall not apply to case management services and  
4795 home-delivered meals provided under the home- and community-based  
4796 services program for the elderly and disabled by a planning and  
4797 development district (PDD). Planning and development districts  
4798 participating in the home- and community-based services program  
4799 for the elderly and disabled as case management providers shall be  
4800 reimbursed for case management services at the maximum rate  
4801 approved by the Centers for Medicare and Medicaid Services (CMS).

4802         The division may pay to those providers who participate in  
4803 and accept patient referrals from the division's emergency room  
4804 redirection program a percentage, as determined by the division,  
4805 of savings achieved according to the performance measures and  
4806 reduction of costs required of that program. Federally qualified  
4807 health centers may participate in the emergency room redirection  
4808 program, and the division may pay those centers a percentage of  
4809 any savings to the Medicaid program achieved by the centers'  
4810 accepting patient referrals through the program, as provided in  
4811 this paragraph.

4812         Notwithstanding any provision of this article, except as  
4813 authorized in the following paragraph and in Section 43-13-139,  
4814 neither (a) the limitations on quantity or frequency of use of or  
4815 the fees or charges for any of the care or services available to  
4816 recipients under this section, nor (b) the payments or rates of  
4817 reimbursement to providers rendering care or services authorized  
4818 under this section to recipients, may be increased, decreased or  
4819 otherwise changed from the levels in effect on July 1, 1999,  
4820 unless they are authorized by an amendment to this section by the  
4821 Legislature. However, the restriction in this paragraph shall not  
4822 prevent the division from changing the payments or rates of



4823 reimbursement to providers without an amendment to this section  
4824 whenever those changes are required by federal law or regulation,  
4825 or whenever those changes are necessary to correct administrative  
4826 errors or omissions in calculating those payments or rates of  
4827 reimbursement.

4828         Notwithstanding any provision of this article, no new groups  
4829 or categories of recipients and new types of care and services may  
4830 be added without enabling legislation from the Mississippi  
4831 Legislature, except that the division may authorize those changes  
4832 without enabling legislation when the addition of recipients or  
4833 services is ordered by a court of proper authority.

4834         The executive director shall keep the Governor advised on a  
4835 timely basis of the funds available for expenditure and the  
4836 projected expenditures. If current or projected expenditures of  
4837 the division are reasonably anticipated to exceed the amount of  
4838 funds appropriated to the division for any fiscal year, the  
4839 Governor, after consultation with the executive director, shall  
4840 discontinue any or all of the payment of the types of care and  
4841 services as provided in this section that are deemed to be  
4842 optional services under Title XIX of the federal Social Security  
4843 Act, as amended, and when necessary, shall institute any other  
4844 cost containment measures on any program or programs authorized  
4845 under the article to the extent allowed under the federal law  
4846 governing that program or programs. However, the Governor shall  
4847 not be authorized to discontinue or eliminate any service under  
4848 this section that is mandatory under federal law, or to  
4849 discontinue or eliminate, or adjust income limits or resource  
4850 limits for, any eligibility category or group under Section  
4851 43-13-115. It is the intent of the Legislature that the  
4852 expenditures of the division during any fiscal year shall not  
4853 exceed the amounts appropriated to the division for that fiscal  
4854 year.



4855           Notwithstanding any other provision of this article, it shall  
4856 be the duty of each nursing facility, intermediate care facility  
4857 for the mentally retarded, psychiatric residential treatment  
4858 facility, and nursing facility for the severely disabled that is  
4859 participating in the Medicaid program to keep and maintain books,  
4860 documents and other records as prescribed by the Division of  
4861 Medicaid in substantiation of its cost reports for a period of  
4862 three (3) years after the date of submission to the Division of  
4863 Medicaid of an original cost report, or three (3) years after the  
4864 date of submission to the Division of Medicaid of an amended cost  
4865 report.

4866           **SECTION 72.** Section 43-17-5, Mississippi Code of 1972, is  
4867 amended as follows:

4868           43-17-5. (1) The amount of Temporary Assistance for Needy  
4869 Families (TANF) benefits which may be granted for any dependent  
4870 child and a needy caretaker relative shall be determined by the  
4871 county department with due regard to the resources and necessary  
4872 expenditures of the family and the conditions existing in each  
4873 case, and in accordance with the rules and regulations made by the  
4874 Department of Human Services which shall not be less than the  
4875 Standard of Need in effect for 1988, and shall be sufficient when  
4876 added to all other income (except that any income specified in the  
4877 federal Social Security Act, as amended, may be disregarded) and  
4878 support available to the child to provide such child with a  
4879 reasonable subsistence compatible with decency and health. The  
4880 first family member in the dependent child's budget may receive an  
4881 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
4882 the second family member in the dependent child's budget may  
4883 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
4884 month; and each additional family member in the dependent child's  
4885 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
4886 month. The maximum for any individual family member in the  
4887 dependent child's budget may be exceeded for foster or medical



4888 care or in cases of \* \* \* children with an intellectual disability  
4889 or a physical disability. TANF benefits granted shall be  
4890 specifically limited only (a) to children existing or conceived at  
4891 the time the caretaker relative initially applies and qualifies  
4892 for such assistance, unless this limitation is specifically waived  
4893 by the department, or (b) to a child born following a  
4894 twelve-consecutive-month period of discontinued benefits by the  
4895 caretaker relative.

4896 (2) TANF benefits in Mississippi shall be provided to the  
4897 recipient family by an online electronic benefits transfer system.

4898 (3) The Department of Human Services shall deny TANF  
4899 benefits to the following categories of individuals, except for  
4900 individuals and families specifically exempt or excluded for good  
4901 cause as allowed by federal statute or regulation:

4902 (a) Families without a minor child residing with the  
4903 custodial parent or other adult caretaker relative of the child;

4904 (b) Families which include an adult who has received  
4905 TANF assistance for sixty (60) months after the commencement of  
4906 the Mississippi TANF program, whether or not such period of time  
4907 is consecutive;

4908 (c) Families not assigning to the state any rights a  
4909 family member may have, on behalf of the family member or of any  
4910 other person for whom the family member has applied for or is  
4911 receiving such assistance, to support from any other person, as  
4912 required by law;

4913 (d) Families who fail to cooperate in establishing  
4914 paternity or obtaining child support, as required by law;

4915 (e) Any individual who has not attained eighteen (18)  
4916 years of age, is not married to the head of household, has a minor  
4917 child at least twelve (12) weeks of age in his or her care, and  
4918 has not successfully completed a high school education or its  
4919 equivalent, if such individual does not participate in educational  
4920 activities directed toward the attainment of a high school diploma



4921 or its equivalent, or an alternative educational or training  
4922 program approved by the department;

4923 (f) Any individual who has not attained eighteen (18)  
4924 years of age, is not married, has a minor child in his or her  
4925 care, and does not reside in a place or residence maintained by a  
4926 parent, legal guardian or other adult relative or the individual  
4927 as such parent's, guardian's or adult relative's own home;

4928 (g) Any minor child who has been, or is expected by a  
4929 parent or other caretaker relative of the child to be, absent from  
4930 the home for a period of more than thirty (30) days;

4931 (h) Any individual who is a parent or other caretaker  
4932 relative of a minor child who fails to notify the department of  
4933 the absence of the minor child from the home for the thirty-day  
4934 period specified in paragraph (g), by the end of the five-day  
4935 period that begins with the date that it becomes clear to the  
4936 individual that the minor child will be absent for the thirty-day  
4937 period;

4938 (i) Any individual who fails to comply with the  
4939 provisions of the Employability Development Plan signed by the  
4940 individual which prescribe those activities designed to help the  
4941 individual become and remain employed, or to participate  
4942 satisfactorily in the assigned work activity, as authorized under  
4943 subsection (6) (c) and (d), or who does not engage in applicant job  
4944 search activities within the thirty-day period for TANF  
4945 application approval after receiving the advice and consultation  
4946 of eligibility workers and/or caseworkers of the department  
4947 providing a detailed description of available job search venues in  
4948 the individual's county of residence or the surrounding counties;

4949 (j) A parent or caretaker relative who has not engaged  
4950 in an allowable work activity once the department determines the  
4951 parent or caretaker relative is ready to engage in work, or once  
4952 the parent or caretaker relative has received TANF assistance



4953 under the program for twenty-four (24) months, whether or not  
4954 consecutive, whichever is earlier;

4955 (k) Any individual who is fleeing to avoid prosecution,  
4956 or custody or confinement after conviction, under the laws of the  
4957 jurisdiction from which the individual flees, for a crime, or an  
4958 attempt to commit a crime, which is a felony under the laws of the  
4959 place from which the individual flees, or who is violating a  
4960 condition of probation or parole imposed under federal or state  
4961 law;

4962 (l) Aliens who are not qualified under federal law;

4963 (m) For a period of ten (10) years following  
4964 conviction, individuals convicted in federal or state court of  
4965 having made a fraudulent statement or representation with respect  
4966 to the individual's place of residence in order to receive TANF,  
4967 food stamps or Supplemental Security Income (SSI) assistance under  
4968 Title XVI or Title XIX simultaneously from two (2) or more states;  
4969 and

4970 (n) Individuals who are recipients of federal  
4971 Supplemental Security Income (SSI) assistance.

4972 (4) (a) Any person who is otherwise eligible for TANF  
4973 benefits, including custodial and noncustodial parents, shall be  
4974 required to attend school and meet the monthly attendance  
4975 requirement as provided in this subsection if all of the following  
4976 apply:

4977 (i) The person is under age twenty (20);

4978 (ii) The person has not graduated from a public or  
4979 private high school or obtained a GED equivalent;

4980 (iii) The person is physically able to attend  
4981 school and is not excused from attending school; and

4982 (iv) If the person is a parent or caretaker  
4983 relative with whom a dependent child is living, child care is  
4984 available for the child.





4985           The monthly attendance requirement under this subsection  
4986 shall be attendance at the school in which the person is enrolled  
4987 for each day during a month that the school conducts classes in  
4988 which the person is enrolled, with not more than two (2) absences  
4989 during the month for reasons other than the reasons listed in  
4990 paragraph (e)(iv) of this subsection. Persons who fail to meet  
4991 participation requirements in this subsection shall be subject to  
4992 sanctions as provided in paragraph (f) of this subsection.

4993           (b) As used in this subsection, "school" means any one  
4994 (1) of the following:

4995                       (i) A school as defined in Section 37-13-91(2);

4996                       (ii) A vocational, technical and adult education  
4997 program; or

4998                       (iii) A course of study meeting the standards  
4999 established by the State Department of Education for the granting  
5000 of a declaration of equivalency of high school graduation.

5001           (c) If any compulsory-school-age child, as defined in  
5002 Section 37-13-91(2), to which TANF eligibility requirements apply  
5003 is not in compliance with the compulsory school attendance  
5004 requirements of Section 37-13-91(6), the superintendent of schools  
5005 of the school district in which the child is enrolled or eligible  
5006 to attend shall notify the county department of human services of  
5007 the child's noncompliance. The Department of Human Services shall  
5008 review school attendance information as provided under this  
5009 paragraph at all initial eligibility determinations and upon  
5010 subsequent report of unsatisfactory attendance.

5011           (d) The signature of a person on an application for  
5012 TANF benefits constitutes permission for the release of school  
5013 attendance records for that person or for any child residing with  
5014 that person. The department shall request information from the  
5015 child's school district about the child's attendance in the school  
5016 district's most recently completed semester of attendance. If  
5017 information about the child's previous school attendance is not



5018 available or cannot be verified, the department shall require the  
5019 child to meet the monthly attendance requirement for one (1)  
5020 semester or until the information is obtained. The department  
5021 shall use the attendance information provided by a school district  
5022 to verify attendance for a child. The department shall review  
5023 with the parent or caretaker relative a child's claim that he or  
5024 she has a good cause for not attending school.

5025 A school district shall provide information to the department  
5026 about the attendance of a child who is enrolled in a public school  
5027 in the district within five (5) working days of the receipt of a  
5028 written request for that information from the department. The  
5029 school district shall define how many hours of attendance count as  
5030 a full day and shall provide that information, upon request, to  
5031 the department. In reporting attendance, the school district may  
5032 add partial days' absence together to constitute a full day's  
5033 absence.

5034 If a school district fails to provide to the department the  
5035 information about the school attendance of any child within  
5036 fifteen (15) working days after a written request, the department  
5037 shall notify the Department of Audit within three (3) working days  
5038 of the school district's failure to comply with that requirement.  
5039 The Department of Audit shall begin audit proceedings within five  
5040 (5) working days of notification by the Department of Human  
5041 Services to determine the school district's compliance with the  
5042 requirements of this subsection (4). If the Department of Audit  
5043 finds that the school district is not in compliance with the  
5044 requirements of this subsection, the school district shall be  
5045 penalized as follows: The Department of Audit shall notify the  
5046 State Department of Education of the school district's  
5047 noncompliance, and the Department of Education shall reduce the  
5048 calculation of the school district's average daily attendance  
5049 (ADA) that is used to determine the allocation of Mississippi  
5050 Adequate Education Program funds by the number of children for



5051 which the district has failed to provide to the Department of  
5052 Human Services the required information about the school  
5053 attendance of those children. The reduction in the calculation of  
5054 the school district's ADA under this paragraph shall be effective  
5055 for a period of one (1) year.

5056 (e) A child who is required to attend school to meet  
5057 the requirements under this subsection shall comply except when  
5058 there is good cause, which shall be demonstrated by any of the  
5059 following circumstances:

5060 (i) The minor parent is the caretaker of a child  
5061 less than twelve (12) weeks old; or

5062 (ii) The department determines that child care  
5063 services are necessary for the minor parent to attend school and  
5064 there is no child care available; or

5065 (iii) The child is prohibited by the school  
5066 district from attending school and an expulsion is pending. This  
5067 exemption no longer applies once the teenager has been expelled;  
5068 however, a teenager who has been expelled and is making  
5069 satisfactory progress towards obtaining a GED equivalent shall be  
5070 eligible for TANF benefits; or

5071 (iv) The child failed to attend school for one or  
5072 more of the following reasons:

5073 1. Illness, injury or incapacity of the child  
5074 or the minor parent's child;

5075 2. Court-required appearances or temporary  
5076 incarceration;

5077 3. Medical or dental appointments for the  
5078 child or minor parent's child;

5079 4. Death of a close relative;

5080 5. Observance of a religious holiday;

5081 6. Family emergency;

5082 7. Breakdown in transportation;

5083 8. Suspension; or



5084                   9. Any other circumstance beyond the control  
5085 of the child, as defined in regulations of the department.

5086                   (f) Upon determination that a child has failed without  
5087 good cause to attend school as required, the department shall  
5088 provide written notice to the parent or caretaker relative  
5089 (whoever is the primary recipient of the TANF benefits) that  
5090 specifies:

5091                   (i) That the family will be sanctioned in the next  
5092 possible payment month because the child who is required to attend  
5093 school has failed to meet the attendance requirement of this  
5094 subsection;

5095                   (ii) The beginning date of the sanction, and the  
5096 child to whom the sanction applies;

5097                   (iii) The right of the child's parents or  
5098 caretaker relative (whoever is the primary recipient of the TANF  
5099 benefits) to request a fair hearing under this subsection.

5100                   The child's parent or caretaker relative (whoever is the  
5101 primary recipient of the TANF benefits) may request a fair hearing  
5102 on the department's determination that the child has not been  
5103 attending school. If the child's parents or caretaker relative  
5104 does not request a fair hearing under this subsection, or if,  
5105 after a fair hearing has been held, the hearing officer finds that  
5106 the child without good cause has failed to meet the monthly  
5107 attendance requirement, the department shall discontinue or deny  
5108 TANF benefits to the child thirteen (13) years old, or older, in  
5109 the next possible payment month. The department shall discontinue  
5110 or deny twenty-five percent (25%) of the family grant when a child  
5111 six (6) through twelve (12) years of age without good cause has  
5112 failed to meet the monthly attendance requirement. Both the child  
5113 and family sanction may apply when children in both age groups  
5114 fail to meet the attendance requirement without good cause. A  
5115 sanction applied under this subsection shall be effective for one  
5116 (1) month for each month that the child failed to meet the monthly



5117 attendance requirement. In the case of a dropout, the sanction  
5118 shall remain in force until the parent or caretaker relative  
5119 provides written proof from the school district that the child has  
5120 reenrolled and met the monthly attendance requirement for one (1)  
5121 calendar month. Any month in which school is in session for at  
5122 least ten (10) days during the month may be used to meet the  
5123 attendance requirement under this subsection. This includes  
5124 attendance at summer school. The sanction shall be removed the  
5125 next possible payment month.

5126 (5) All parents or caretaker relatives shall have their  
5127 dependent children receive vaccinations and booster vaccinations  
5128 against those diseases specified by the State Health Officer under  
5129 Section 41-23-37 in accordance with the vaccination and booster  
5130 vaccination schedule prescribed by the State Health Officer for  
5131 children of that age, in order for the parents or caretaker  
5132 relatives to be eligible or remain eligible to receive TANF  
5133 benefits. Proof of having received such vaccinations and booster  
5134 vaccinations shall be given by presenting the certificates of  
5135 vaccination issued by any health care provider licensed to  
5136 administer vaccinations, and submitted on forms specified by the  
5137 State Board of Health. If the parents without good cause do not  
5138 have their dependent children receive the vaccinations and booster  
5139 vaccinations as required by this subsection and they fail to  
5140 comply after thirty (30) days' notice, the department shall  
5141 sanction the family's TANF benefits by twenty-five percent (25%)  
5142 for the next payment month and each subsequent payment month until  
5143 the requirements of this subsection are met.

5144 (6) (a) If the parent or caretaker relative applying for  
5145 TANF assistance is work eligible, as determined by the Department  
5146 of Human Services, the person shall be required to engage in an  
5147 allowable work activity once the department determines the parent  
5148 or caretaker relative is determined work eligible, or once the  
5149 parent or caretaker relative has received TANF assistance under



5150 the program for twenty-four (24) months, whether or not  
5151 consecutive, whichever is earlier. No TANF benefits shall be  
5152 given to any person to whom this section applies who fails without  
5153 good cause to comply with the Employability Development Plan  
5154 prepared by the department for the person, or who has refused to  
5155 accept a referral or offer of employment, training or education in  
5156 which he or she is able to engage, subject to the penalties  
5157 prescribed in subsection (6)(e). A person shall be deemed to have  
5158 refused to accept a referral or offer of employment, training or  
5159 education if he or she:

5160                   (i) Willfully fails to report for an interview  
5161 with respect to employment when requested to do so by the  
5162 department; or

5163                   (ii) Willfully fails to report to the department  
5164 the result of a referral to employment; or

5165                   (iii) Willfully fails to report for allowable work  
5166 activities as prescribed in subsection (6)(c) and (d).

5167           (b) The Department of Human Services shall operate a  
5168 statewide work program for TANF recipients to provide work  
5169 activities and supportive services to enable families to become  
5170 self-sufficient and improve their competitive position in the  
5171 workforce in accordance with the requirements of the federal  
5172 Personal Responsibility and Work Opportunity Reconciliation Act of  
5173 1996 (Public Law 104-193), as amended, and the regulations  
5174 promulgated thereunder, and the Deficit Reduction Act of 2005  
5175 (Public Law 109-171), as amended. Within sixty (60) days after  
5176 the initial application for TANF benefits, the TANF recipient must  
5177 participate in a job search skills training workshop or a job  
5178 readiness program, which shall include résumé writing, job search  
5179 skills, employability skills and, if available at no charge, the  
5180 General Aptitude Test Battery or its equivalent. All adults who  
5181 are not specifically exempt shall be referred by the department



5182 for allowable work activities. An adult may be exempt from the  
5183 mandatory work activity requirement for the following reasons:

5184 (i) Incapacity;

5185 (ii) Temporary illness or injury, verified by  
5186 physician's certificate;

5187 (iii) Is in the third trimester of pregnancy, and  
5188 there are complications verified by the certificate of a  
5189 physician, nurse practitioner, physician assistant, or any other  
5190 licensed health care professional practicing under a protocol with  
5191 a licensed physician;

5192 (iv) Caretaker of a child under twelve (12)  
5193 months, for not more than twelve (12) months of the sixty-month  
5194 maximum benefit period;

5195 (v) Caretaker of an ill or incapacitated person,  
5196 as verified by physician's certificate;

5197 (vi) Age, if over sixty (60) or under eighteen  
5198 (18) years of age;

5199 (vii) Receiving treatment for substance abuse, if  
5200 the person is in compliance with the substance abuse treatment  
5201 plan;

5202 (viii) In a two-parent family, the caretaker of a  
5203 severely disabled child, as verified by a physician's certificate;  
5204 or

5205 (ix) History of having been a victim of domestic  
5206 violence, which has been reported as required by state law and is  
5207 substantiated by police reports or court records, and being at  
5208 risk of further domestic violence, shall be exempt for a period as  
5209 deemed necessary by the department but not to exceed a total of  
5210 twelve (12) months, which need not be consecutive, in the  
5211 sixty-month maximum benefit period. For the purposes of this  
5212 subparagraph (ix), "domestic violence" means that an individual  
5213 has been subjected to:



- 5214 1. Physical acts that resulted in, or  
5215 threatened to result in, physical injury to the individual;  
5216 2. Sexual abuse;  
5217 3. Sexual activity involving a dependent  
5218 child;  
5219 4. Being forced as the caretaker relative of  
5220 a dependent child to engage in nonconsensual sexual acts or  
5221 activities;  
5222 5. Threats of, or attempts at, physical or  
5223 sexual abuse;  
5224 6. Mental abuse; or  
5225 7. Neglect or deprivation of medical care.

5226 (c) For all families, all adults who are not  
5227 specifically exempt shall be required to participate in work  
5228 activities for at least the minimum average number of hours per  
5229 week specified by federal law or regulation, not fewer than twenty  
5230 (20) hours per week (thirty-five (35) hours per week for  
5231 two-parent families) of which are attributable to the following  
5232 allowable work activities:

- 5233 (i) Unsubsidized employment;  
5234 (ii) Subsidized private employment;  
5235 (iii) Subsidized public employment;  
5236 (iv) Work experience (including work associated  
5237 with the refurbishing of publicly assisted housing), if sufficient  
5238 private employment is not available;  
5239 (v) On-the-job training;  
5240 (vi) Job search and job readiness assistance  
5241 consistent with federal TANF regulations;  
5242 (vii) Community service programs;  
5243 (viii) Vocational educational training (not to  
5244 exceed twelve (12) months with respect to any individual);  
5245 (ix) The provision of child care services to an  
5246 individual who is participating in a community service program;





5247 (x) Satisfactory attendance at high school or in a  
5248 course of study leading to a high school equivalency certificate,  
5249 for heads of household under age twenty (20) who have not  
5250 completed high school or received such certificate;

5251 (xi) Education directly related to employment, for  
5252 heads of household under age twenty (20) who have not completed  
5253 high school or received such equivalency certificate.

5254 (d) The following are allowable work activities which  
5255 may be attributable to hours in excess of the minimum specified in  
5256 subsection (6) (c):

5257 (i) Job skills training directly related to  
5258 employment;

5259 (ii) Education directly related to employment for  
5260 individuals who have not completed high school or received a high  
5261 school equivalency certificate;

5262 (iii) Satisfactory attendance at high school or in  
5263 a course of study leading to a high school equivalency, for  
5264 individuals who have not completed high school or received such  
5265 equivalency certificate;

5266 (iv) Job search and job readiness assistance  
5267 consistent with federal TANF regulations.

5268 (e) If any adult or caretaker relative refuses to  
5269 participate in allowable work activity as required under this  
5270 subsection (6), the following full family TANF benefit penalty  
5271 will apply, subject to due process to include notification,  
5272 conciliation and a hearing if requested by the recipient:

5273 (i) For the first violation, the department shall  
5274 terminate the TANF assistance otherwise payable to the family for  
5275 a two-month period or until the person has complied with the  
5276 required work activity, whichever is longer;

5277 (ii) For the second violation, the department  
5278 shall terminate the TANF assistance otherwise payable to the



5279 family for a six-month period or until the person has complied  
5280 with the required work activity, whichever is longer;

5281 (iii) For the third violation, the department  
5282 shall terminate the TANF assistance otherwise payable to the  
5283 family for a twelve-month period or until the person has complied  
5284 with the required work activity, whichever is longer;

5285 (iv) For the fourth violation, the person shall be  
5286 permanently disqualified.

5287 For a two-parent family, unless prohibited by state or  
5288 federal law, Medicaid assistance shall be terminated only for the  
5289 person whose failure to participate in allowable work activity  
5290 caused the family's TANF assistance to be sanctioned under this  
5291 subsection (6) (e), unless an individual is pregnant, but shall not  
5292 be terminated for any other person in the family who is meeting  
5293 that person's applicable work requirement or who is not required  
5294 to work. Minor children shall continue to be eligible for  
5295 Medicaid benefits regardless of the disqualification of their  
5296 parent or caretaker relative for TANF assistance under this  
5297 subsection (6), unless prohibited by state or federal law.

5298 (f) Any person enrolled in a two-year or four-year  
5299 college program who meets the eligibility requirements to receive  
5300 TANF benefits, and who is meeting the applicable work requirements  
5301 and all other applicable requirements of the TANF program, shall  
5302 continue to be eligible for TANF benefits while enrolled in the  
5303 college program for as long as the person meets the requirements  
5304 of the TANF program, unless prohibited by federal law.

5305 (g) No adult in a work activity required under this  
5306 subsection (6) shall be employed or assigned (i) when any other  
5307 individual is on layoff from the same or any substantially  
5308 equivalent job within six (6) months before the date of the TANF  
5309 recipient's employment or assignment; or (ii) if the employer has  
5310 terminated the employment of any regular employee or otherwise  
5311 caused an involuntary reduction of its workforce in order to fill



5312 the vacancy so created with an adult receiving TANF assistance.  
5313 The Mississippi Department of Employment Security, established  
5314 under Section 71-5-101, shall appoint one or more impartial  
5315 hearing officers to hear and decide claims by employees of  
5316 violations of this paragraph (g). The hearing officer shall hear  
5317 all the evidence with respect to any claim made hereunder and such  
5318 additional evidence as he may require and shall make a  
5319 determination and the reason therefor. The claimant shall be  
5320 promptly notified of the decision of the hearing officer and the  
5321 reason therefor. Within ten (10) days after the decision of the  
5322 hearing officer has become final, any party aggrieved thereby may  
5323 secure judicial review thereof by commencing an action, in the  
5324 circuit court of the county in which the claimant resides, against  
5325 the department for the review of such decision, in which action  
5326 any other party to the proceeding before the hearing officer shall  
5327 be made a defendant. Any such appeal shall be on the record which  
5328 shall be certified to the court by the department in the manner  
5329 provided in Section 71-5-531, and the jurisdiction of the court  
5330 shall be confined to questions of law which shall render its  
5331 decision as provided in that section.

5332 (7) The Department of Human Services may provide child care  
5333 for eligible participants who require such care so that they may  
5334 accept employment or remain employed. The department may also  
5335 provide child care for those participating in the TANF program  
5336 when it is determined that they are satisfactorily involved in  
5337 education, training or other allowable work activities. The  
5338 department may contract with Head Start agencies to provide child  
5339 care services to TANF recipients. The department may also arrange  
5340 for child care by use of contract or vouchers, provide vouchers in  
5341 advance to a caretaker relative, reimburse a child care provider,  
5342 or use any other arrangement deemed appropriate by the department,  
5343 and may establish different reimbursement rates for child care  
5344 services depending on the category of the facility or home. Any



5345 center-based or group home child care facility under this  
5346 subsection shall be licensed by the State Department of Health  
5347 pursuant to law. When child care is being provided in the child's  
5348 own home, in the home of a relative of the child, or in any other  
5349 unlicensed setting, the provision of such child care may be  
5350 monitored on a random basis by the Department of Human Services or  
5351 the State Department of Health. Transitional child care  
5352 assistance may be continued if it is necessary for parents to  
5353 maintain employment once support has ended, unless prohibited  
5354 under state or federal law. Transitional child care assistance  
5355 may be provided for up to twenty-four (24) months after the last  
5356 month during which the family was eligible for TANF assistance, if  
5357 federal funds are available for such child care assistance.

5358 (8) The Department of Human Services may provide  
5359 transportation or provide reasonable reimbursement for  
5360 transportation expenses that are necessary for individuals to be  
5361 able to participate in allowable work activity under the TANF  
5362 program.

5363 (9) Medicaid assistance shall be provided to a family of  
5364 TANF program participants for up to twenty-four (24) consecutive  
5365 calendar months following the month in which the participating  
5366 family would be ineligible for TANF benefits because of increased  
5367 income, expiration of earned income disregards, or increased hours  
5368 of employment of the caretaker relative; however, Medicaid  
5369 assistance for more than twelve (12) months may be provided only  
5370 if a federal waiver is obtained to provide such assistance for  
5371 more than twelve (12) months and federal and state funds are  
5372 available to provide such assistance.

5373 (10) The department shall require applicants for and  
5374 recipients of public assistance from the department to sign a  
5375 personal responsibility contract that will require the applicant  
5376 or recipient to acknowledge his or her responsibilities to the  
5377 state.



5378 (11) The department shall enter into an agreement with the  
5379 State Personnel Board and other state agencies that will allow  
5380 those TANF participants who qualify for vacant jobs within state  
5381 agencies to be placed in state jobs. State agencies participating  
5382 in the TANF work program shall receive any and all benefits  
5383 received by employers in the private sector for hiring TANF  
5384 recipients. This subsection (11) shall be effective only if the  
5385 state obtains any necessary federal waiver or approval and if  
5386 federal funds are available therefor.

5387 (12) Any unspent TANF funds remaining from the prior fiscal  
5388 year may be expended for any TANF allowable activities.

5389 (13) The Mississippi Department of Human Services shall  
5390 provide TANF applicants information and referral to programs that  
5391 provide information about birth control, prenatal health care,  
5392 abstinence education, marriage education, family preservation and  
5393 fatherhood.

5394 (14) No new TANF program requirement or restriction  
5395 affecting a person's eligibility for TANF assistance, or allowable  
5396 work activity, which is not mandated by federal law or regulation  
5397 may be implemented by the Department of Human Services after July  
5398 1, 2004, unless such is specifically authorized by an amendment to  
5399 this section by the Legislature.

5400 (15) This section shall stand repealed on July 1, 2011.

5401 **SECTION 73.** Section 43-21-105, Mississippi Code of 1972, is  
5402 amended as follows:

5403 43-21-105. The following words and phrases, for purposes of  
5404 this chapter, shall have the meanings ascribed herein unless the  
5405 context clearly otherwise requires:

5406 (a) "Youth court" means the Youth Court Division.

5407 (b) "Judge" means the judge of the Youth Court  
5408 Division.

5409 (c) "Designee" means any person that the judge appoints  
5410 to perform a duty which this chapter requires to be done by the



5411 judge or his designee. The judge may not appoint a person who is  
5412 involved in law enforcement to be his designee.

5413 (d) "Child" and "youth" are synonymous, and each means  
5414 a person who has not reached his eighteenth birthday. A child who  
5415 has not reached his eighteenth birthday and is on active duty for  
5416 a branch of the armed services or is married is not considered a  
5417 "child" or "youth" for the purposes of this chapter.

5418 (e) "Parent" means the father or mother to whom the  
5419 child has been born, or the father or mother by whom the child has  
5420 been legally adopted.

5421 (f) "Guardian" means a court-appointed guardian of the  
5422 person of a child.

5423 (g) "Custodian" means any person having the present  
5424 care or custody of a child whether such person be a parent or  
5425 otherwise.

5426 (h) "Legal custodian" means a court-appointed custodian  
5427 of the child.

5428 (i) "Delinquent child" means a child who has reached  
5429 his tenth birthday and who has committed a delinquent act.

5430 (j) "Delinquent act" is any act, which if committed by  
5431 an adult, is designated as a crime under state or federal law, or  
5432 municipal or county ordinance other than offenses punishable by  
5433 life imprisonment or death. A delinquent act includes escape from  
5434 lawful detention and violations of the Uniform Controlled  
5435 Substances Law and violent behavior.

5436 (k) "Child in need of supervision" means a child who  
5437 has reached his seventh birthday and is in need of treatment or  
5438 rehabilitation because the child:

5439 (i) Is habitually disobedient of reasonable and  
5440 lawful commands of his parent, guardian or custodian and is  
5441 ungovernable; or



5442 (ii) While being required to attend school,  
5443 willfully and habitually violates the rules thereof or willfully  
5444 and habitually absents himself therefrom; or

5445 (iii) Runs away from home without good cause; or

5446 (iv) Has committed a delinquent act or acts.

5447 (1) "Neglected child" means a child:

5448 (i) Whose parent, guardian or custodian or any  
5449 person responsible for his care or support, neglects or refuses,  
5450 when able so to do, to provide for him proper and necessary care  
5451 or support, or education as required by law, or medical, surgical,  
5452 or other care necessary for his well-being; \* \* \* however, a  
5453 parent who withholds medical treatment from any child who in good  
5454 faith is under treatment by spiritual means alone through prayer  
5455 in accordance with the tenets and practices of a recognized church  
5456 or religious denomination by a duly accredited practitioner  
5457 thereof shall not, for that reason alone, be considered to be  
5458 neglectful under any provision of this chapter; or

5459 (ii) Who is otherwise without proper care,  
5460 custody, supervision or support; or

5461 (iii) Who, for any reason, lacks the special care  
5462 made necessary for him by reason of his mental condition, whether  
5463 the mental condition is having mental illness or having an  
5464 intellectual disability; or

5465 (iv) Who, for any reason, lacks the care necessary  
5466 for his health, morals or well-being.

5467 (m) "Abused child" means a child whose parent, guardian  
5468 or custodian or any person responsible for his care or support,  
5469 whether legally obligated to do so or not, has caused or allowed  
5470 to be caused upon the child sexual abuse, sexual exploitation,  
5471 emotional abuse, mental injury, nonaccidental physical injury or  
5472 other maltreatment. \* \* \* However, \* \* \* physical discipline,  
5473 including spanking, performed on a child by a parent, guardian or



5474 custodian in a reasonable manner shall not be deemed abuse under  
5475 this section.

5476 (n) "Sexual abuse" means obscene or pornographic  
5477 photographing, filming or depiction of children for commercial  
5478 purposes, or the rape, molestation, incest, prostitution or other  
5479 such forms of sexual exploitation of children under circumstances  
5480 which indicate that the child's health or welfare is harmed or  
5481 threatened.

5482 (o) "A child in need of special care" means a child  
5483 with any mental or physical illness that cannot be treated with  
5484 the dispositional alternatives ordinarily available to the youth  
5485 court.

5486 (p) A "dependent child" means any child who is not a  
5487 child in need of supervision, a delinquent child, an abused child  
5488 or a neglected child, and which child has been voluntarily placed  
5489 in the custody of the Department of Human Services by his parent,  
5490 guardian or custodian.

5491 (q) "Custody" means the physical possession of the  
5492 child by any person.

5493 (r) "Legal custody" means the legal status created by a  
5494 court order which gives the legal custodian the responsibilities  
5495 of physical possession of the child and the duty to provide him  
5496 with food, shelter, education and reasonable medical care, all  
5497 subject to residual rights and responsibilities of the parent or  
5498 guardian of the person.

5499 (s) "Detention" means the care of children in  
5500 physically restrictive facilities.

5501 (t) "Shelter" means care of children in physically  
5502 nonrestrictive facilities.

5503 (u) "Records involving children" means any of the  
5504 following from which the child can be identified:

5505 (i) All youth court records as defined in Section  
5506 43-21-251;





5507 (ii) All social records as defined in Section  
5508 43-21-253;

5509 (iii) All law enforcement records as defined in  
5510 Section 43-21-255;

5511 (iv) All agency records as defined in Section  
5512 43-21-257; and

5513 (v) All other documents maintained by any  
5514 representative of the state, county, municipality or other public  
5515 agency insofar as they relate to the apprehension, custody,  
5516 adjudication or disposition of a child who is the subject of a  
5517 youth court cause.

5518 (v) "Any person responsible for care or support" means  
5519 the person who is providing for the child at a given time. This  
5520 term shall include, but is not limited to, stepparents, foster  
5521 parents, relatives, nonlicensed baby-sitters or other similar  
5522 persons responsible for a child and staff of residential care  
5523 facilities and group homes that are licensed by the Department of  
5524 Human Services.

5525 (w) The singular includes the plural, the plural the  
5526 singular and the masculine the feminine when consistent with the  
5527 intent of this chapter.

5528 (x) "Out-of-home" setting means the temporary  
5529 supervision or care of children by the staff of licensed day care  
5530 centers, the staff of public, private and state schools, the staff  
5531 of juvenile detention facilities, the staff of unlicensed  
5532 residential care facilities and group homes and the staff of, or  
5533 individuals representing, churches, civic or social organizations.

5534 (y) "Durable legal custody" means the legal status  
5535 created by a court order which gives the durable legal custodian  
5536 the responsibilities of physical possession of the child and the  
5537 duty to provide him with care, nurture, welfare, food, shelter,  
5538 education and reasonable medical care. All these duties as



5539 enumerated are subject to the residual rights and responsibilities  
5540 of the natural parent(s) or guardian(s) of the child or children.

5541 (z) "Status offense" means conduct subject to  
5542 adjudication by the youth court that would not be a crime if  
5543 committed by an adult.

5544 **SECTION 74.** Section 43-27-25, Mississippi Code of 1972, is  
5545 amended as follows:

5546 43-27-25. No person shall be committed to an institution  
5547 under the control of the Department of Youth Services who is  
5548 seriously handicapped by having mental illness or an intellectual  
5549 disability. If after a person is referred to the training schools  
5550 it is determined that he has mental illness or an intellectual  
5551 disability to an extent that he could not be properly cared for in  
5552 its custody, the director may institute necessary legal action to  
5553 accomplish the transfer of such person to such other state  
5554 institution as, in his judgment, is best qualified to care for him  
5555 in accordance with the laws of this state. The department shall  
5556 establish standards with regard to the physical and mental health  
5557 of persons which it can accept for commitment.

5558 **SECTION 75.** Section 73-19-23, Mississippi Code of 1972, is  
5559 amended as follows:

5560 73-19-23. (1) The board shall refuse to grant a certificate  
5561 of licensure to any applicant and may cancel, revoke or suspend  
5562 the operation of any certificate by it granted for any or all of  
5563 the following reasons: unprofessional and unethical conduct or  
5564 the conviction of a crime involving moral turpitude, habitual  
5565 intemperance in the use of ardent spirits, or stimulants,  
5566 narcotics, or any other substance that impairs the intellect and  
5567 judgment to such an extent as to incapacitate one for the  
5568 performance of the duties of an optometrist. The certificate of  
5569 licensure of any person can be revoked for violating any section  
5570 of this chapter.



5571           (2) The board shall further be authorized to take  
5572 disciplinary action against a licensee for any unlawful acts,  
5573 which shall include violations of regulations promulgated by the  
5574 board, as well as the following acts:

5575           (a) Fraud or misrepresentation in applying for or  
5576 procuring an optometric license or in connection with applying for  
5577 or procuring periodic renewal of an optometric license.

5578           (b) Cheating on or attempting to subvert the optometric  
5579 licensing examination(s).

5580           (c) The conviction of a felony in this state or any  
5581 other jurisdiction, or the entry of a guilty or nolo contendere  
5582 plea to a felony charge.

5583           (d) The conviction of a felony as defined by federal  
5584 law, or the entry of a guilty or nolo contendere plea to a felony  
5585 charge.

5586           (e) Conduct likely to deceive, defraud or harm the  
5587 public.

5588           (f) Making a false or misleading statement regarding  
5589 his or her skill or the efficacy or value of the medicine, device,  
5590 treatment or remedy prescribed by him or her or used at his or her  
5591 direction in the treatment of any disease or other condition.

5592           (g) Willfully or negligently violating the  
5593 confidentiality between doctor and patient, except as required by  
5594 law.

5595           (h) Negligence or gross incompetence in the practice of  
5596 optometry as determined by the board.

5597           (i) Being found to be a person with mental illness or  
5598 with an intellectual disability by any court of competent  
5599 jurisdiction.

5600           (j) The use of any false, fraudulent, deceptive or  
5601 misleading statement in any document connected with the practice  
5602 of optometry.



5603                   (k) Aiding or abetting the practice of optometry by an  
5604                   unlicensed, incompetent or impaired person.

5605                   (l) Commission of any act of sexual abuse, misconduct  
5606                   or exploitation related to the licensee's practice of optometry.

5607                   (m) Being addicted or habituated to a drug or  
5608                   intoxicant.

5609                   (n) Violating any state or federal law or regulation  
5610                   relating to a drug legally classified as a controlled substance.

5611                   (o) Obtaining any fee by fraud, deceit or  
5612                   misrepresentation.

5613                   (p) Disciplinary action of another state or  
5614                   jurisdiction against a licensee or other authorization to practice  
5615                   optometry based upon acts or conduct by the licensee similar to  
5616                   acts or conduct that would constitute grounds for action as  
5617                   defined in this chapter, a certified copy of the record of the  
5618                   action taken by the other state or jurisdiction being conclusive  
5619                   evidence thereof.

5620                   (q) Failure to report to the board the relocation of  
5621                   his or her office in or out of the jurisdiction, or to furnish  
5622                   floor plans as required by regulation.

5623                   (r) Violation of any provision(s) of the Optometry  
5624                   Practice Act or the rules and regulations of the board or of an  
5625                   action, stipulation or agreement of the board.

5626                   (s) To advertise in a manner that tends to deceive,  
5627                   mislead or defraud the public.

5628                   (t) The designation of any person licensed under this  
5629                   chapter, other than by the terms "optometrist," "Doctor of  
5630                   Optometry" or "O.D."

5631                   (u) To knowingly submit or cause to be submitted any  
5632                   misleading, deceptive or fraudulent representation on a claim  
5633                   form, bill or statement.

5634                   (v) To practice or attempt to practice optometry while  
5635                   his or her license is suspended.



5636 (3) Any person who is holder of a certificate of licensure  
5637 or who is an applicant for examination for a certificate of  
5638 licensure, against whom is preferred any charges, shall be  
5639 furnished by the board with a copy of the complaint and shall have  
5640 a hearing in Jackson, Mississippi, before the board, at which  
5641 hearing he may be represented by counsel. At the hearing,  
5642 witnesses may be examined for and against the accused respecting  
5643 those charges, and the hearing orders or appeals will be conducted  
5644 according to the procedure now provided in Section 73-25-27. The  
5645 suspension of a certificate of licensure by reason of the use of  
5646 stimulants or narcotics may be removed when the holder of the  
5647 certificate has been adjudged by the board to be cured and capable  
5648 of practicing optometry.

5649 (4) In addition to the reasons specified in subsections (1)  
5650 and (2) of this section, the board shall be authorized to suspend  
5651 the license of any licensee for being out of compliance with an  
5652 order for support, as defined in Section 93-11-153. The procedure  
5653 for suspension of a license for being out of compliance with an  
5654 order for support, and the procedure for the reissuance or  
5655 reinstatement of a license suspended for that purpose, and the  
5656 payment of any fees for the reissuance or reinstatement of a  
5657 license suspended for that purpose, shall be governed by Section  
5658 93-11-157 or 93-11-163, as the case may be. If there is any  
5659 conflict between any provision of Section 93-11-157 or 93-11-163  
5660 and any provision of this chapter, the provisions of Section  
5661 93-11-157 or 93-11-163, as the case may be, shall control.

5662 **SECTION 76.** Section 83-41-205, Mississippi Code of 1972, is  
5663 amended as follows:

5664 83-41-205. Any individual hospital or medical service plan  
5665 contract or any individual hospital or medical expense insurance  
5666 policy delivered or issued for delivery in this state after  
5667 September 12, 1972, which provides that coverage of a dependent  
5668 child shall terminate upon attainment of the limiting age for



5669 dependent children specified in the contract or policy, shall also  
5670 provide in substance that attainment of such limiting age shall  
5671 not operate to terminate the coverage of such child while the  
5672 child is and continues to be both (a) incapable of self-sustaining  
5673 employment by reason of having an intellectual disability or a  
5674 physical disability, and (b) chiefly dependent upon the subscriber  
5675 or policyholder for support and maintenance, provided proof of  
5676 such incapacity and dependency is furnished to the hospital or  
5677 medical service plan corporation or insurer by the subscriber or  
5678 policyholder within thirty-one (31) days of the child's attainment  
5679 of the limiting age and subsequently as may be required by the  
5680 corporation or insurer, but not more frequently than annually  
5681 after the two-year period following the child's attainment of the  
5682 limiting age.

5683 Any insurer or hospital service plan corporation continuing  
5684 dependent coverage beyond the limiting age for dependent children  
5685 as prescribed by this section, shall have the right to charge the  
5686 standard adult premium for such coverage.

5687 **SECTION 77.** Section 83-41-207, Mississippi Code of 1972, is  
5688 amended as follows:

5689 83-41-207. Any group hospital or medical service plan  
5690 contract or any group hospital or medical expense insurance policy  
5691 delivered or issued for delivery in this state after September 12,  
5692 1972, which provides that coverage of a dependent child of an  
5693 employee, insured party, or other member of the covered group  
5694 shall terminate upon attainment of the limiting age for dependent  
5695 children specified in the contract or policy, shall also provide  
5696 in substance that attainment of such limiting age shall not  
5697 operate to terminate the coverage of such child while the child is  
5698 and continues to be both (a) incapable of self-sustaining  
5699 employment by reason of having an intellectual disability or a  
5700 physical disability, and (b) chiefly dependent upon the employee,  
5701 insured party, or member for support and maintenance, provided



5702 proof of such incapacity and dependency is furnished to the  
5703 hospital or medical service plan corporation or insurer by the  
5704 employee, insured party, or member within thirty-one (31) days of  
5705 the child's attainment of the limiting age and subsequently as may  
5706 be required by the corporation or insurer, but not more frequently  
5707 than annually after the two-year period following the child's  
5708 attainment of the limiting age.

5709 Any insurer or hospital service plan corporation continuing  
5710 dependent coverage beyond the limiting age for dependent children  
5711 as prescribed by this section, shall have the right to charge the  
5712 standard adult premium for such coverage.

5713 **SECTION 78.** Section 93-1-5, Mississippi Code of 1972, is  
5714 amended as follows:

5715 93-1-5. It shall be unlawful for the circuit court clerk to  
5716 issue a marriage license until the following conditions precedent  
5717 have been complied with:

5718 (a) Parties desiring a marriage license shall make  
5719 application for the license in writing to the clerk of the circuit  
5720 court of any county in the State of Mississippi; however, if the  
5721 female applicant is under the age of twenty-one (21) years and is  
5722 a resident of the State of Mississippi, the application shall be  
5723 made to the circuit court clerk of the county of residence of the  
5724 female applicant. The application shall be immediately filed with  
5725 the circuit court clerk and shall include the names, ages and  
5726 addresses of the parties applying; the names and addresses of the  
5727 parents of the parties applying, and if no parents, then names and  
5728 addresses of the guardian or next of kin; the signatures of  
5729 witnesses; and any other data that may be required by law or the  
5730 State Board of Health. The application shall be sworn to by both  
5731 applicants.

5732 (b) The application shall remain on file, open to the  
5733 public, in the office of the circuit court clerk for a period of  
5734 three (3) days before the clerk is authorized to issue the



5735 marriage license. However, if satisfactory proof is furnished to  
5736 the judge of any circuit, chancery or county court that sufficient  
5737 reasons exist, then the judge of any such court in the judicial  
5738 district where either of the parties resides if they are over the  
5739 age of twenty-one (21) years, or where the female resides if she  
5740 is under the age of twenty-one (21), may waive the three-day  
5741 waiting period and by written instrument authorize the clerk of  
5742 the court to issue the marriage license to the parties if they are  
5743 otherwise qualified by law. Authorization shall be a part of the  
5744 confidential files of the clerk of the court, subject to  
5745 inspection only by written permission of the judge. If either of  
5746 the applying parties appears from the evidence to be under  
5747 twenty-one (21) years of age, the circuit court clerk, immediately  
5748 upon filing the application, shall cause notice of the filing of  
5749 the application to be sent by prepaid certified mail to the  
5750 father, mother, guardian or next of kin of both applying parties  
5751 at the address named in the application.

5752 (c) An affidavit showing the age of both applying  
5753 parties shall be made by either the father, mother, guardian or  
5754 next of kin of each of the contracting parties and filed with the  
5755 clerk of the circuit court along with the application; or in lieu  
5756 thereof, both applying parties shall appear in person before the  
5757 circuit court clerk and make and subscribe an oath in person,  
5758 which affidavit shall be attached to and noted on the application  
5759 for the marriage license. In addition to either of the previous  
5760 conditions stated, further proof of age shall be presented to the  
5761 circuit court clerk in the form of either a birth certificate,  
5762 baptismal record, armed service discharge, armed service  
5763 identification card, life insurance policy, insurance certificate,  
5764 school record, driver's license, or other official document  
5765 evidencing age. The document substantiating age and date of birth  
5766 shall be examined by the circuit court clerk before whom  
5767 application is made, and the circuit court clerk shall retain in





5768 his file with the application the document or a certified or  
5769 photostatic copy of the document.

5770 (d) The clerk shall not issue a marriage license under  
5771 the provisions of this section unless the male applicant is at  
5772 least seventeen (17) years of age and the female is at least  
5773 fifteen (15) years of age; however, if satisfactory proof is  
5774 furnished to the judge of any circuit, chancery or county court  
5775 that sufficient reasons exist and that the parties desire to be  
5776 married to each other and that the parents or other person in loco  
5777 parentis of the person or persons so under age consent to the  
5778 marriage, then the judge of any such court in the county where  
5779 either of the parties resides may waive the minimum age  
5780 requirement and by written instrument authorize the clerk of the  
5781 court to issue the marriage license to the parties if they are  
5782 otherwise qualified by law. Authorization shall be a part of the  
5783 confidential files of the clerk of the court, subject to  
5784 inspection only by written permission of the judge.

5785 (e) A medical certificate dated within thirty (30) days  
5786 before the application shall be presented to the circuit court  
5787 clerk showing that the applicant is free from syphilis, as nearly  
5788 as can be determined by a blood test performed in a laboratory  
5789 approved by the State Board of Health. The medical certificate  
5790 may be obtained through the local health department by the  
5791 applicant or applicants, or it may be obtained through any private  
5792 laboratory approved by the State Board of Health. The medical  
5793 certificate shall be examined by the circuit court clerk and filed  
5794 in a permanent file kept by the clerk for this purpose.

5795 (f) In no event shall a license be issued by the  
5796 circuit court clerk when it appears to the circuit court clerk  
5797 that the applicants are, or either of them is, drunk or a person  
5798 with mental illness or an intellectual disability, to the extent  
5799 that the clerk believes that the person does not understand the  
5800 nature and consequences of the request.



5801 Any circuit clerk shall be liable under his official bond  
5802 because of noncompliance with the provisions of this section.

5803 Any circuit court clerk who issues a marriage license without  
5804 complying with the provisions of this section shall be guilty of a  
5805 misdemeanor and, upon conviction, shall be punished by a fine of  
5806 not less than Fifty Dollars (\$50.00) and not more than Five  
5807 Hundred Dollars (\$500.00).

5808 **SECTION 79.** Section 93-5-1, Mississippi Code of 1972, is  
5809 amended as follows:

5810 93-5-1. Divorces from the bonds of matrimony may be decreed  
5811 to the injured party for any one or more of the following twelve  
5812 (12) causes:

5813 First. Natural impotency.

5814 Second. Adultery, unless it should appear that it was  
5815 committed by collusion of the parties for the purpose of procuring  
5816 a divorce, or unless the parties cohabited after a knowledge by  
5817 complainant of the adultery.

5818 Third. Being sentenced to any penitentiary, and not pardoned  
5819 before being sent there.

5820 Fourth. Willful, continued and obstinate desertion for the  
5821 space of one (1) year.

5822 Fifth. Habitual drunkenness.

5823 Sixth. Habitual and excessive use of opium, morphine or  
5824 other like drug.

5825 Seventh. Habitual cruel and inhuman treatment.

5826 Eighth. Having mental illness or an intellectual disability  
5827 at the time of marriage, if the party complaining did not know of  
5828 that infirmity.

5829 Ninth. Marriage to some other person at the time of the  
5830 pretended marriage between the parties.

5831 Tenth. Pregnancy of the wife by another person at the time  
5832 of the marriage, if the husband did not know of the pregnancy.



5833           Eleventh. Either party may have a divorce if they are  
5834 related to each other within the degrees of kindred between whom  
5835 marriage is prohibited by law.

5836           Twelfth. Incurable mental illness. However, no divorce  
5837 shall be granted upon this ground unless the party with mental  
5838 illness has been under regular treatment for mental illness and  
5839 causes thereof, confined in an institution for persons with mental  
5840 illness for a period of at least three (3) years immediately  
5841 preceding the commencement of the action. However, transfer of a  
5842 party with mental illness to his or her home for treatment or a  
5843 trial visit on prescription or recommendation of a licensed  
5844 physician, which treatment or trial visit proves unsuccessful  
5845 after a bona fide effort by the complaining party to effect a  
5846 cure, upon the reconfinement of the party with mental illness in  
5847 an institution for persons with mental illness, shall be regular  
5848 treatment for mental illness and causes thereof, and the period of  
5849 time so consumed in seeking to effect a cure or while on a trial  
5850 visit home shall be added to the period of actual confinement in  
5851 an institution for persons with mental illness in computing the  
5852 required period of three (3) years confinement immediately  
5853 preceding the beginning of the action. No divorce shall be  
5854 granted because of mental illness until after a thorough  
5855 examination of the person with mental illness by two (2)  
5856 physicians who are recognized authorities on mental diseases. One  
5857 (1) of those physicians shall be either the superintendent of a  
5858 state psychiatric hospital or institution or a veterans hospital  
5859 for persons with mental illness in which the patient is confined,  
5860 or a member of the medical staff of that hospital or institution  
5861 who has had the patient in charge. Before incurable mental  
5862 illness can be successfully proven as a ground for divorce, it  
5863 shall be necessary that both of those physicians make affidavit  
5864 that the patient is a person with mental illness at the time of  
5865 the examination, and both affidavits shall be made a part of the



5866 permanent record of the divorce proceedings and shall create the  
5867 prima facie presumption of incurable mental illness, such as would  
5868 justify a divorce based on that ground. Service of process shall  
5869 be made on the superintendent of the hospital or institution in  
5870 which the defendant is a patient. If the patient is in a hospital  
5871 or institution outside the state, process shall be served by  
5872 publication, as in other cases of service by publication, together  
5873 with the sending of a copy by registered mail to the  
5874 superintendent of the hospital or institution. In addition,  
5875 process shall be served upon the next blood relative and guardian,  
5876 if any. If there is no legal guardian, the court shall appoint a  
5877 guardian ad litem to represent the interest of the person with  
5878 mental illness. The relative or guardian and superintendent of  
5879 the hospital or institution shall be entitled to appear and be  
5880 heard upon any and all issues. The status of the parties as to  
5881 the support and maintenance of the person with mental illness  
5882 shall not be altered in any way by the granting of the divorce.

5883         However, in the discretion of the chancery court, and in  
5884 those cases as the court may deem it necessary and proper, before  
5885 any such decree is granted on the ground of incurable mental  
5886 illness, the complainant, when ordered by the court, shall enter  
5887 into bond, to be approved by the court, in such an amount as the  
5888 court may think just and proper, conditioned for the care and  
5889 keeping of the person with mental illness during the remainder of  
5890 his or her natural life, unless the person with mental illness has  
5891 a sufficient estate in his or her own right for that purpose.

5892         **SECTION 80.** Section 97-9-25, Mississippi Code of 1972, is  
5893 amended as follows:

5894         97-9-25. It shall be unlawful for any person, firm,  
5895 copartnership, corporation or association to knowingly entice,  
5896 harbor, employ, or aid, assist or abet in the escape, enticing,  
5897 harboring or employment of any delinquent, person with mental  
5898 illness, person with an intellectual disability or incorrigible



5899 person committed to, or confined in any institution maintained by  
5900 the state for the treatment, education or welfare of delinquent  
5901 persons, persons with mental illness, persons with an intellectual  
5902 disability or incorrigible persons. Any person violating the  
5903 provisions of this section, upon conviction, shall be punished by  
5904 a fine of not less than Twenty-five Dollars (\$25.00) nor more than  
5905 Five Hundred Dollars (\$500.00), or imprisonment in the county jail  
5906 for not less than thirty (30) days, nor more than ninety (90)  
5907 days, or both.

5908         **SECTION 81.** Section 99-13-1, Mississippi Code of 1972, is  
5909 amended as follows:

5910             99-13-1. The term "person with an intellectual disability,"  
5911 within the meaning of this chapter, shall have the same meaning as  
5912 the term " \* \* \* person with an intellectual disability" in  
5913 Section 41-21-61.

5914         **SECTION 82.** Section 99-13-3, Mississippi Code of 1972, is  
5915 amended as follows:

5916             99-13-3. When any prisoner or any person charged with a  
5917 crime or delinquency is brought before any conservator of the  
5918 peace, and in the course of the investigation it appears that the  
5919 person was insane when the offense was committed and still is  
5920 insane, or was a person with an intellectual disability to such an  
5921 extent as not to be responsible for his or her act or omission at  
5922 the time when the act or omission charged was made, he shall not  
5923 be discharged, but the conservator of the peace shall remand the  
5924 prisoner to custody and immediately report the case to the  
5925 chancellor or clerk of the chancery court, whose duty it shall be  
5926 to proceed with the case according to the law provided for persons  
5927 with mental illness or persons with an intellectual disability.

5928         **SECTION 83.** Section 99-13-5, Mississippi Code of 1972, is  
5929 amended as follows:

5930             99-13-5. When any person is held in prison or on bail,  
5931 charged with an offense, and the grand jury does not find a true



5932 bill for reason of insanity of the accused or for reason that the  
5933 accused has an intellectual disability, which they judge to be  
5934 such that he or she was not responsible for his acts or omissions  
5935 at the time when the act or omission charged was committed or  
5936 made, the grand jury shall certify the fact to the circuit court  
5937 and shall state whether or not the insane person or person with an  
5938 intellectual disability is a danger to the security of persons and  
5939 property and the peace and safety of the community, and if the  
5940 grand jury reports that insanity or intellectual disability and  
5941 that danger, the court shall immediately give notice of the case  
5942 to the chancellor or to the clerk of the chancery court, whose  
5943 duty it shall be to proceed with the insane person and his estate  
5944 or the person with an intellectual disability according to the law  
5945 provided in the case of persons with mental illness or persons  
5946 with an intellectual disability.

5947       **SECTION 84.** Section 99-13-9, Mississippi Code of 1972, is  
5948 amended as follows:

5949       99-13-9. When any person is indicted for an offense and  
5950 acquitted on the ground of having an intellectual disability, the  
5951 jury rendering the verdict shall state in the verdict that ground  
5952 and whether the accused constitutes a danger to life or property  
5953 and to the peace and safety of the community. If the jury  
5954 certifies that the person with an intellectual disability is  
5955 dangerous to the peace and safety of the community or to himself,  
5956 the court shall immediately give notice of the case to the  
5957 chancellor or the clerk of the chancery court, whose duty it shall  
5958 be to proceed with the person according to the law provided in the  
5959 case of persons with an intellectual disability, the person with  
5960 an intellectual disability himself being remanded to custody to  
5961 await the action of the chancery court.

5962       **SECTION 85.** This act shall take effect and be in force from  
5963 and after its passage.

