

By: Representative Moore

To: Medicaid; Public Health
and Human Services

HOUSE BILL NO. 302

1 AN ACT TO PROVIDE THAT RECIPIENTS OF MEDICAID BENEFITS WHO
2 ARE 13 YEARS OF AGE OR OLDER SHALL BE SUBJECT TO TAKING A DRUG
3 TEST ON A RANDOM BASIS TO DETERMINE THEIR ELIGIBILITY TO CONTINUE
4 RECEIVING THE BENEFITS; TO PROVIDE THAT IF A RECIPIENT OF MEDICAID
5 BENEFITS IS GIVEN A DRUG TEST AND HE OR SHE TESTS POSITIVE FOR ANY
6 PROHIBITED DRUG, THE RECIPIENT SHALL NOT BE ELIGIBLE TO RECEIVE
7 THE BENEFITS FOR A PERIOD OF NOT LESS THAN 90 DAYS; TO PROVIDE
8 THAT AFTER THAT PERIOD, A PERSON MAY REAPPLY TO RECEIVE MEDICAID
9 BENEFITS, AND WILL BE ELIGIBLE TO RECEIVE THE BENEFITS AGAIN IF
10 THE PERSON PASSES ANOTHER DRUG TEST; TO PROVIDE THAT THE STATE
11 DEPARTMENT OF HEALTH SHALL PERFORM THE DRUG TESTS AUTHORIZED BY
12 THIS ACT, AND THE COST OF THE DRUG TESTS SHALL BE PAID BY THE
13 DIVISION OF MEDICAID; TO AMEND SECTION 43-13-115, MISSISSIPPI CODE
14 OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
15 PURPOSES.

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

17 **SECTION 1.** (1) As used in this section:

18 (a) "Drug" means a controlled substance, as defined in
19 Section 41-29-105, for which a person does not have a valid
20 prescription.

21 (b) "Drug test" means a chemical test administered for
22 the purpose of determining the presence or absence of a drug or
23 metabolites in a person's body fluids.

24 (c) "Medicaid benefits" means medical assistance under
25 the Medicaid program.

26 (2) Recipients of Medicaid benefits who are thirteen (13)
27 years of age or older shall be subject to taking a drug test on a
28 random basis to determine their eligibility to continue receiving
29 the benefits. If a recipient is given a drug test and he or she
30 tests positive for any drug, the recipient shall not be eligible
31 to receive Medicaid benefits for a period of not less than ninety
32 (90) days. After that period, a person may reapply to receive



33 Medicaid benefits, and will be eligible to receive the benefits
34 again if the person passes another drug test.

35 (3) The State Department of Health shall perform the drug
36 tests authorized by this section, and the cost of the drug tests
37 shall be paid by the Division of Medicaid.

38 **SECTION 2.** Section 43-13-115, Mississippi Code of 1972, is
39 amended as follows:

40 43-13-115. A. Recipients of Medicaid shall be the following
41 persons only:

42 (1) Those who are qualified for public assistance
43 grants under provisions of Title IV-A and E of the federal Social
44 Security Act, as amended, including those statutorily deemed to be
45 IV-A and low-income families and children under Section 1931 of
46 the federal Social Security Act. For the purposes of this
47 paragraph (1) and paragraphs (8), (17) and (18) of this section,
48 any reference to Title IV-A or to Part A of Title IV of the
49 federal Social Security Act, as amended, or the state plan under
50 Title IV-A or Part A of Title IV, shall be considered as a
51 reference to Title IV-A of the federal Social Security Act, as
52 amended, and the state plan under Title IV-A, including the income
53 and resource standards and methodologies under Title IV-A and the
54 state plan, as they existed on July 16, 1996. The Department of
55 Human Services shall determine Medicaid eligibility for children
56 receiving public assistance grants under Title IV-E. The division
57 shall determine eligibility for low-income families under Section
58 1931 of the federal Social Security Act and shall redetermine
59 eligibility for those continuing under Title IV-A grants.

60 (2) Those qualified for Supplemental Security Income
61 (SSI) benefits under Title XVI of the federal Social Security Act,
62 as amended, and those who are deemed SSI eligible as contained in
63 federal statute. The eligibility of individuals covered in this
64 paragraph shall be determined by the Social Security
65 Administration and certified to the Division of Medicaid.



66 (3) Qualified pregnant women who would be eligible for
67 Medicaid as a low-income family member under Section 1931 of the
68 federal Social Security Act if her child were born. The
69 eligibility of the individuals covered under this paragraph shall
70 be determined by the division.

71 (4) [Deleted]

72 (5) A child born on or after October 1, 1984, to a
73 woman eligible for and receiving Medicaid under the state plan on
74 the date of the child's birth shall be deemed to have applied for
75 Medicaid and to have been found eligible for Medicaid under the
76 plan on the date of that birth, and will remain eligible for
77 Medicaid for a period of one (1) year so long as the child is a
78 member of the woman's household and the woman remains eligible for
79 Medicaid or would be eligible for Medicaid if pregnant. The
80 eligibility of individuals covered in this paragraph shall be
81 determined by the Division of Medicaid.

82 (6) Children certified by the State Department of Human
83 Services to the Division of Medicaid of whom the state and county
84 departments of human services have custody and financial
85 responsibility, and children who are in adoptions subsidized in
86 full or part by the Department of Human Services, including
87 special needs children in non-Title IV-E adoption assistance, who
88 are approvable under Title XIX of the Medicaid program. The
89 eligibility of the children covered under this paragraph shall be
90 determined by the State Department of Human Services.

91 (7) Persons certified by the Division of Medicaid who
92 are patients in a medical facility (nursing home, hospital,
93 tuberculosis sanatorium or institution for treatment of mental
94 diseases), and who, except for the fact that they are patients in
95 that medical facility, would qualify for grants under Title IV,
96 Supplementary Security Income (SSI) benefits under Title XVI or
97 state supplements, and those aged, blind and disabled persons who
98 would not be eligible for Supplemental Security Income (SSI)



99 benefits under Title XVI or state supplements if they were not
100 institutionalized in a medical facility but whose income is below
101 the maximum standard set by the Division of Medicaid, which
102 standard shall not exceed that prescribed by federal regulation.

103 (8) Children under eighteen (18) years of age and
104 pregnant women (including those in intact families) who meet the
105 financial standards of the state plan approved under Title IV-A of
106 the federal Social Security Act, as amended. The eligibility of
107 children covered under this paragraph shall be determined by the
108 Division of Medicaid.

109 (9) Individuals who are:

110 (a) Children born after September 30, 1983, who
111 have not attained the age of nineteen (19), with family income
112 that does not exceed one hundred percent (100%) of the nonfarm
113 official poverty level;

114 (b) Pregnant women, infants and children who have
115 not attained the age of six (6), with family income that does not
116 exceed one hundred thirty-three percent (133%) of the federal
117 poverty level; and

118 (c) Pregnant women and infants who have not
119 attained the age of one (1), with family income that does not
120 exceed one hundred eighty-five percent (185%) of the federal
121 poverty level.

122 The eligibility of individuals covered in (a), (b) and (c) of
123 this paragraph shall be determined by the division.

124 (10) Certain disabled children age eighteen (18) or
125 under who are living at home, who would be eligible, if in a
126 medical institution, for SSI or a state supplemental payment under
127 Title XVI of the federal Social Security Act, as amended, and
128 therefore for Medicaid under the plan, and for whom the state has
129 made a determination as required under Section 1902(e)(3)(b) of
130 the federal Social Security Act, as amended. The eligibility of



131 individuals under this paragraph shall be determined by the
132 Division of Medicaid.

133 (11) Until the end of the day on December 31, 2005,
134 individuals who are sixty-five (65) years of age or older or are
135 disabled as determined under Section 1614(a)(3) of the federal
136 Social Security Act, as amended, and whose income does not exceed
137 one hundred thirty-five percent (135%) of the nonfarm official
138 poverty level as defined by the Office of Management and Budget
139 and revised annually, and whose resources do not exceed those
140 established by the Division of Medicaid. The eligibility of
141 individuals covered under this paragraph shall be determined by
142 the Division of Medicaid. After December 31, 2005, only those
143 individuals covered under the 1115(c) Healthier Mississippi waiver
144 will be covered under this category.

145 Any individual who applied for Medicaid during the period
146 from July 1, 2004, through March 31, 2005, who otherwise would
147 have been eligible for coverage under this paragraph (11) if it
148 had been in effect at the time the individual submitted his or her
149 application and is still eligible for coverage under this
150 paragraph (11) on March 31, 2005, shall be eligible for Medicaid
151 coverage under this paragraph (11) from March 31, 2005, through
152 December 31, 2005. The division shall give priority in processing
153 the applications for those individuals to determine their
154 eligibility under this paragraph (11).

155 (12) Individuals who are qualified Medicare
156 beneficiaries (QMB) entitled to Part A Medicare as defined under
157 Section 301, Public Law 100-360, known as the Medicare
158 Catastrophic Coverage Act of 1988, and whose income does not
159 exceed one hundred percent (100%) of the nonfarm official poverty
160 level as defined by the Office of Management and Budget and
161 revised annually.

162 The eligibility of individuals covered under this paragraph
163 shall be determined by the Division of Medicaid, and those



164 individuals determined eligible shall receive Medicare
165 cost-sharing expenses only as more fully defined by the Medicare
166 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
167 1997.

168 (13) (a) Individuals who are entitled to Medicare Part
169 A as defined in Section 4501 of the Omnibus Budget Reconciliation
170 Act of 1990, and whose income does not exceed one hundred twenty
171 percent (120%) of the nonfarm official poverty level as defined by
172 the Office of Management and Budget and revised annually.
173 Eligibility for Medicaid benefits is limited to full payment of
174 Medicare Part B premiums.

175 (b) Individuals entitled to Part A of Medicare,
176 with income above one hundred twenty percent (120%), but less than
177 one hundred thirty-five percent (135%) of the federal poverty
178 level, and not otherwise eligible for * * * Medicaid benefits, are
179 limited to full payment of Medicare Part B premiums. The number
180 of eligible individuals is limited by the availability of the
181 federal capped allocation at one hundred percent (100%) of federal
182 matching funds, as more fully defined in the Balanced Budget Act
183 of 1997.

184 The eligibility of individuals covered under this paragraph
185 shall be determined by the Division of Medicaid.

186 (14) [Deleted]

187 (15) Disabled workers who are eligible to enroll in
188 Part A Medicare as required by Public Law 101-239, known as the
189 Omnibus Budget Reconciliation Act of 1989, and whose income does
190 not exceed two hundred percent (200%) of the federal poverty level
191 as determined in accordance with the Supplemental Security Income
192 (SSI) program. The eligibility of individuals covered under this
193 paragraph shall be determined by the Division of Medicaid and
194 those individuals shall be entitled to buy-in coverage of Medicare
195 Part A premiums only under the provisions of this paragraph (15).



196 (16) In accordance with the terms and conditions of
197 approved Title XIX waiver from the United States Department of
198 Health and Human Services, persons provided home- and
199 community-based services who are physically disabled and certified
200 by the Division of Medicaid as eligible due to applying the income
201 and deeming requirements as if they were institutionalized.

202 (17) In accordance with the terms of the federal
203 Personal Responsibility and Work Opportunity Reconciliation Act of
204 1996 (Public Law 104-193), persons who become ineligible for
205 assistance under Title IV-A of the federal Social Security Act, as
206 amended, because of increased income from or hours of employment
207 of the caretaker relative or because of the expiration of the
208 applicable earned income disregards, who were eligible for
209 Medicaid for at least three (3) of the six (6) months preceding
210 the month in which the ineligibility begins, shall be eligible for
211 Medicaid for up to twelve (12) months. The eligibility of the
212 individuals covered under this paragraph shall be determined by
213 the division.

214 (18) Persons who become ineligible for assistance under
215 Title IV-A of the federal Social Security Act, as amended, as a
216 result, in whole or in part, of the collection or increased
217 collection of child or spousal support under Title IV-D of the
218 federal Social Security Act, as amended, who were eligible for
219 Medicaid for at least three (3) of the six (6) months immediately
220 preceding the month in which the ineligibility begins, shall be
221 eligible for Medicaid for an additional four (4) months beginning
222 with the month in which the ineligibility begins. The eligibility
223 of the individuals covered under this paragraph shall be
224 determined by the division.

225 (19) Disabled workers, whose incomes are above the
226 Medicaid eligibility limits, but below two hundred fifty percent
227 (250%) of the federal poverty level, shall be allowed to purchase



228 Medicaid coverage on a sliding fee scale developed by the Division
229 of Medicaid.

230 (20) Medicaid eligible children under age eighteen (18)
231 shall remain eligible for Medicaid benefits until the end of a
232 period of twelve (12) months following an eligibility
233 determination, or until such time that the individual exceeds age
234 eighteen (18).

235 (21) Women of childbearing age whose family income does
236 not exceed one hundred eighty-five percent (185%) of the federal
237 poverty level. The eligibility of individuals covered under this
238 paragraph (21) shall be determined by the Division of Medicaid,
239 and those individuals determined eligible shall only receive
240 family planning services covered under Section 43-13-117(13) and
241 not any other services covered under Medicaid. However, any
242 individual eligible under this paragraph (21) who is also eligible
243 under any other provision of this section shall receive the
244 benefits to which he or she is entitled under that other
245 provision, in addition to family planning services covered under
246 Section 43-13-117(13).

247 The Division of Medicaid shall apply to the United States
248 Secretary of Health and Human Services for a federal waiver of the
249 applicable provisions of Title XIX of the federal Social Security
250 Act, as amended, and any other applicable provisions of federal
251 law as necessary to allow for the implementation of this paragraph
252 (21). The provisions of this paragraph (21) shall be implemented
253 from and after the date that the Division of Medicaid receives the
254 federal waiver.

255 (22) Persons who are workers with a potentially severe
256 disability, as determined by the division, shall be allowed to
257 purchase Medicaid coverage. The term "worker with a potentially
258 severe disability" means a person who is at least sixteen (16)
259 years of age but under sixty-five (65) years of age, who has a
260 physical or mental impairment that is reasonably expected to cause



261 the person to become blind or disabled as defined under Section
262 1614(a) of the federal Social Security Act, as amended, if the
263 person does not receive items and services provided under
264 Medicaid.

265 The eligibility of persons under this paragraph (22) shall be
266 conducted as a demonstration project that is consistent with
267 Section 204 of the Ticket to Work and Work Incentives Improvement
268 Act of 1999, Public Law 106-170, for a certain number of persons
269 as specified by the division. The eligibility of individuals
270 covered under this paragraph (22) shall be determined by the
271 Division of Medicaid.

272 (23) Children certified by the Mississippi Department
273 of Human Services for whom the state and county departments of
274 human services have custody and financial responsibility who are
275 in foster care on their eighteenth birthday as reported by the
276 Mississippi Department of Human Services shall be certified
277 Medicaid eligible by the Division of Medicaid until their
278 twenty-first birthday.

279 (24) Individuals who have not attained age sixty-five
280 (65), are not otherwise covered by creditable coverage as defined
281 in the Public Health Services Act, and have been screened for
282 breast and cervical cancer under the Centers for Disease Control
283 and Prevention Breast and Cervical Cancer Early Detection Program
284 established under Title XV of the Public Health Service Act in
285 accordance with the requirements of that act and who need
286 treatment for breast or cervical cancer. Eligibility of
287 individuals under this paragraph (24) shall be determined by the
288 Division of Medicaid.

289 (25) The division shall apply to the Centers for
290 Medicare and Medicaid Services (CMS) for any necessary waivers to
291 provide services to individuals who are sixty-five (65) years of
292 age or older or are disabled as determined under Section
293 1614(a)(3) of the federal Social Security Act, as amended, and



294 whose income does not exceed one hundred thirty-five percent
295 (135%) of the nonfarm official poverty level as defined by the
296 Office of Management and Budget and revised annually, and whose
297 resources do not exceed those established by the Division of
298 Medicaid, and who are not otherwise covered by Medicare. Nothing
299 contained in this paragraph (25) shall entitle an individual to
300 benefits. The eligibility of individuals covered under this
301 paragraph shall be determined by the Division of Medicaid.

302 (26) The division shall apply to the Centers for
303 Medicare and Medicaid Services (CMS) for any necessary waivers to
304 provide services to individuals who are sixty-five (65) years of
305 age or older or are disabled as determined under Section
306 1614(a)(3) of the federal Social Security Act, as amended, who are
307 end stage renal disease patients on dialysis, cancer patients on
308 chemotherapy or organ transplant recipients on anti-rejection
309 drugs, whose income does not exceed one hundred thirty-five
310 percent (135%) of the nonfarm official poverty level as defined by
311 the Office of Management and Budget and revised annually, and
312 whose resources do not exceed those established by the division.
313 Nothing contained in this paragraph (26) shall entitle an
314 individual to benefits. The eligibility of individuals covered
315 under this paragraph shall be determined by the Division of
316 Medicaid.

317 (27) Individuals who are entitled to Medicare Part D
318 and whose income does not exceed one hundred fifty percent (150%)
319 of the nonfarm official poverty level as defined by the Office of
320 Management and Budget and revised annually. Eligibility for
321 payment of the Medicare Part D subsidy under this paragraph shall
322 be determined by the division.

323 B. In order to be eligible for medical assistance under this
324 article, the applicant or recipient must be in compliance with the
325 drug testing provisions of Section 1 of this act.



326 C. The division shall redetermine eligibility for all
327 categories of recipients described in each paragraph of this
328 section not less frequently than required by federal law.

329 **SECTION 3.** This act shall take effect and be in force from
330 and after July 1, 2011.

