

By: Representative Dixon

To: Appropriations

HOUSE BILL NO. 1196

1 AN ACT TO PROVIDE THAT RECIPIENTS OF PUBLIC ASSISTANCE
2 BENEFITS WHO ARE 13 YEARS OF AGE OR OLDER SHALL BE SUBJECT TO
3 TAKING A DRUG TEST ON A RANDOM BASIS TO DETERMINE THEIR
4 ELIGIBILITY TO CONTINUE RECEIVING THE BENEFITS; TO PROVIDE THAT IF
5 A RECIPIENT IS GIVEN A DRUG TEST AND HE OR SHE TESTS POSITIVE FOR
6 ANY PROHIBITED DRUG, THE RECIPIENT MUST RECEIVE TREATMENT FOR
7 SUBSTANCE ABUSE THROUGH A COMMUNITY MENTAL HEALTH CENTER OR A
8 LOCAL MEDICAL PROVIDER; TO PROVIDE THAT THE RECIPIENT WILL REMAIN
9 ELIGIBLE TO CONTINUE RECEIVING THE BENEFITS WHILE RECEIVING THE
10 SUBSTANCE ABUSE TREATMENT; TO REQUIRE THE RECIPIENT TO PRESENT
11 DOCUMENTED PROOF FROM A COMMUNITY MENTAL HEALTH CENTER OR A LOCAL
12 MEDICAL PROVIDER, NOT LATER THAN 90 DAYS AFTER TESTING POSITIVE
13 FOR A DRUG, THAT HE OR SHE IS FREE FROM SUBSTANCE ABUSE IN ORDER
14 TO CONTINUE RECEIVING THE BENEFITS; TO PROVIDE THAT IF THE
15 RECIPIENT DOES NOT PRESENT DOCUMENTED PROOF THAT HE OR SHE IS FREE
16 FROM SUBSTANCE WITHIN THE PRESCRIBED TIME, THE RECIPIENT SHALL NOT
17 BE ELIGIBLE TO RECEIVE THE BENEFITS FOR A PERIOD OF NOT LESS THAN
18 90 DAYS; TO PROVIDE THAT AFTER THAT PERIOD, A PERSON MAY REAPPLY
19 TO RECEIVE PUBLIC ASSISTANCE BENEFITS, AND WILL BE ELIGIBLE TO
20 RECEIVE THE BENEFITS AGAIN IF THE PERSON PASSES ANOTHER DRUG TEST;
21 TO DIRECT THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES, IN
22 CONJUNCTION WITH THE BUREAU OF NARCOTICS AND THE STATE DEPARTMENT
23 OF HEALTH, TO ESTABLISH AND ADMINISTER A TESTING PROGRAM WITH SUCH
24 STANDARDS AND PROCEDURES DEEMED NECESSARY TO ACCOMPLISH THE
25 REQUIREMENTS OF THIS ACT; TO PROVIDE THAT ALL TESTING REQUIRED
26 UNDER THIS ACT SHALL BE PERFORMED AT THE MISSISSIPPI CRIME
27 LABORATORY OR AT A LABORATORY APPROVED BY THE DIRECTOR OF THE
28 MISSISSIPPI CRIME LABORATORY; TO AMEND SECTIONS 43-13-115 AND
29 43-17-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF
30 THIS ACT; AND FOR RELATED PURPOSES.

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

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



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

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

39 (c) "Public assistance benefits" means any payments or
40 grants under the Temporary Assistance to Needy Families (TANF)
41 program, medical assistance services under the Medicaid program,
42 and any other economic assistance payments or services provided by
43 the Mississippi Department of Human Services or the Department of
44 Mental Health that are funded, in whole or in part, with state
45 funds.

46 (2) Recipients of public assistance benefits who are
47 thirteen (13) years of age or older shall be subject to taking a
48 drug test on a random basis to determine their eligibility to
49 continue receiving the benefits. If a recipient is given a drug
50 test and he or she tests positive for any drug, the recipient must
51 receive treatment for substance abuse through a community mental
52 health center or a local medical provider. While receiving the
53 substance abuse treatment, the recipient will remain eligible to
54 continue receiving the benefits as long as participation in the
55 treatment is properly documented. The recipient must present
56 documented proof from a community mental health center or a local
57 medical provider, not later than ninety (90) days after testing



58 positive for a drug, that he or she is free from substance abuse
59 in order to continue receiving the benefits. If the recipient
60 does not present documented proof that he or she is free from
61 substance within the prescribed time, the recipient shall not be
62 eligible to receive the benefits for a period of not less than
63 ninety (90) days. After that period, a person may reapply to
64 receive public assistance benefits, and will be eligible to
65 receive the benefits again if the person passes another drug test.

66 (3) The Mississippi Department of Human Services in
67 conjunction with the Bureau of Narcotics and the State Department
68 of Health, shall establish and administer a testing program with
69 such standards and procedures deemed necessary to accomplish the
70 requirements of this section. The testing program will be funded
71 with monies appropriated by the Legislature to those agencies for
72 that purpose. All testing required under this section shall be
73 performed at the Mississippi Crime Laboratory or at a laboratory
74 approved by the director of the Mississippi Crime Laboratory.

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

77 43-13-115. A. Recipients of Medicaid shall be the following
78 persons only:

79 (1) Those who are qualified for public assistance
80 grants under provisions of Title IV-A and E of the federal Social
81 Security Act, as amended, including those statutorily deemed to be
82 IV-A and low-income families and children under Section 1931 of



83 the federal Social Security Act. For the purposes of this
84 paragraph (1) and paragraphs (8), (17) and (18) of this section,
85 any reference to Title IV-A or to Part A of Title IV of the
86 federal Social Security Act, as amended, or the state plan under
87 Title IV-A or Part A of Title IV, shall be considered as a
88 reference to Title IV-A of the federal Social Security Act, as
89 amended, and the state plan under Title IV-A, including the income
90 and resource standards and methodologies under Title IV-A and the
91 state plan, as they existed on July 16, 1996. The Department of
92 Human Services shall determine Medicaid eligibility for children
93 receiving public assistance grants under Title IV-E. The division
94 shall determine eligibility for low-income families under Section
95 1931 of the federal Social Security Act and shall redetermine
96 eligibility for those continuing under Title IV-A grants.

97 (2) Those qualified for Supplemental Security Income
98 (SSI) benefits under Title XVI of the federal Social Security Act,
99 as amended, and those who are deemed SSI eligible as contained in
100 federal statute. The eligibility of individuals covered in this
101 paragraph shall be determined by the Social Security
102 Administration and certified to the Division of Medicaid.

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



108 (4) [Deleted]

109 (5) A child born on or after October 1, 1984, to a
110 woman eligible for and receiving Medicaid under the state plan on
111 the date of the child's birth shall be deemed to have applied for
112 Medicaid and to have been found eligible for Medicaid under the
113 plan on the date of that birth, and will remain eligible for
114 Medicaid for a period of one (1) year so long as the child is a
115 member of the woman's household and the woman remains eligible for
116 Medicaid or would be eligible for Medicaid if pregnant. The
117 eligibility of individuals covered in this paragraph shall be
118 determined by the Division of Medicaid.

119 (6) Children certified by the State Department of Human
120 Services to the Division of Medicaid of whom the state and county
121 departments of human services have custody and financial
122 responsibility, and children who are in adoptions subsidized in
123 full or part by the Department of Human Services, including
124 special needs children in non-Title IV-E adoption assistance, who
125 are approvable under Title XIX of the Medicaid program. The
126 eligibility of the children covered under this paragraph shall be
127 determined by the State Department of Human Services.

128 (7) Persons certified by the Division of Medicaid who
129 are patients in a medical facility (nursing home, hospital,
130 tuberculosis sanatorium or institution for treatment of mental
131 diseases), and who, except for the fact that they are patients in
132 that medical facility, would qualify for grants under Title IV,



Supplementary Security Income (SSI) benefits under Title XVI or state supplements, and those aged, blind and disabled persons who would not be eligible for Supplemental Security Income (SSI) benefits under Title XVI or state supplements if they were not institutionalized in a medical facility but whose income is below the maximum standard set by the Division of Medicaid, which standard shall not exceed that prescribed by federal regulation.

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

(9) Individuals who are:

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

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

(c) Pregnant women and infants who have not attained the age of one (1), with family income that does not



157 exceed one hundred eighty-five percent (185%) of the federal
158 poverty level.

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

161 (10) Certain disabled children age eighteen (18) or
162 under who are living at home, who would be eligible, if in a
163 medical institution, for SSI or a state supplemental payment under
164 Title XVI of the federal Social Security Act, as amended, and
165 therefore for Medicaid under the plan, and for whom the state has
166 made a determination as required under Section 1902(e)(3)(b) of
167 the federal Social Security Act, as amended. The eligibility of
168 individuals under this paragraph shall be determined by the
169 Division of Medicaid.

170 (11) Until the end of the day on December 31, 2005,
171 individuals who are sixty-five (65) years of age or older or are
172 disabled as determined under Section 1614(a)(3) of the federal
173 Social Security Act, as amended, and whose income does not exceed
174 one hundred thirty-five percent (135%) of the nonfarm official
175 poverty level as defined by the Office of Management and Budget
176 and revised annually, and whose resources do not exceed those
177 established by the Division of Medicaid. The eligibility of
178 individuals covered under this paragraph shall be determined by
179 the Division of Medicaid. After December 31, 2005, only those
180 individuals covered under the 1115(c) Healthier Mississippi waiver
181 will be covered under this category.



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

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

The eligibility of individuals covered under this paragraph shall be determined by the Division of Medicaid, and those individuals determined eligible shall receive Medicare cost-sharing expenses only as more fully defined by the Medicare Catastrophic Coverage Act of 1988 and the Balanced Budget Act of 1997.

(13) (a) Individuals who are entitled to Medicare Part A as defined in Section 4501 of the Omnibus Budget Reconciliation



Act of 1990, and whose income does not exceed one hundred twenty percent (120%) of the nonfarm official poverty level as defined by the Office of Management and Budget and revised annually. Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums.

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

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

(14) [Deleted]

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



those individuals shall be entitled to buy-in coverage of Medicare Part A premiums only under the provisions of this paragraph (15).

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

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

(18) Persons who become ineligible for assistance under Title IV-A of the federal Social Security Act, as amended, as a result, in whole or in part, of the collection or increased collection of child or spousal support under Title IV-D of the federal Social Security Act, as amended, who were eligible for



Medicaid for at least three (3) of the six (6) months immediately preceding the month in which the ineligibility begins, shall be eligible for Medicaid for an additional four (4) months beginning with the month in which the ineligibility begins. The eligibility of the individuals covered under this paragraph shall be determined by the division.

(19) Disabled workers, whose incomes are above the Medicaid eligibility limits, but below two hundred fifty percent (250%) of the federal poverty level, shall be allowed to purchase Medicaid coverage on a sliding fee scale developed by the Division of Medicaid.

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

(21) Women of childbearing age whose family income does not exceed one hundred eighty-five percent (185%) of the federal poverty level. The eligibility of individuals covered under this paragraph (21) shall be determined by the Division of Medicaid, and those individuals determined eligible shall only receive family planning services covered under Section 43-13-117(13) and not any other services covered under Medicaid. However, any individual eligible under this paragraph (21) who is also eligible under any other provision of this section shall receive the



benefits to which he or she is entitled under that other provision, in addition to family planning services covered under Section 43-13-117(13).

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

(22) Persons who are workers with a potentially severe disability, as determined by the division, shall be allowed to purchase Medicaid coverage. The term "worker with a potentially severe disability" means a person who is at least sixteen (16) years of age but under sixty-five (65) years of age, who has a physical or mental impairment that is reasonably expected to cause the person to become blind or disabled as defined under Section 1614(a) of the federal Social Security Act, as amended, if the person does not receive items and services provided under Medicaid.

The eligibility of persons under this paragraph (22) shall be conducted as a demonstration project that is consistent with Section 204 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170, for a certain number of persons



as specified by the division. The eligibility of individuals covered under this paragraph (22) shall be determined by the Division of Medicaid.

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

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

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



331 whose income does not exceed one hundred thirty-five percent
332 (135%) of the nonfarm official poverty level as defined by the
333 Office of Management and Budget and revised annually, and whose
334 resources do not exceed those established by the Division of
335 Medicaid, and who are not otherwise covered by Medicare. Nothing
336 contained in this paragraph (25) shall entitle an individual to
337 benefits. The eligibility of individuals covered under this
338 paragraph shall be determined by the Division of Medicaid.

339 (26) The division shall apply to the Centers for
340 Medicare and Medicaid Services (CMS) for any necessary waivers to
341 provide services to individuals who are sixty-five (65) years of
342 age or older or are disabled as determined under Section
343 1614(a)(3) of the federal Social Security Act, as amended, who are
344 end stage renal disease patients on dialysis, cancer patients on
345 chemotherapy or organ transplant recipients on antirejection
346 drugs, whose income does not exceed one hundred thirty-five
347 percent (135%) of the nonfarm official poverty level as defined by
348 the Office of Management and Budget and revised annually, and
349 whose resources do not exceed those established by the division.
350 Nothing contained in this paragraph (26) shall entitle an
351 individual to benefits. The eligibility of individuals covered
352 under this paragraph shall be determined by the Division of
353 Medicaid.

354 (27) Individuals who are entitled to Medicare Part D
355 and whose income does not exceed one hundred fifty percent (150%)



of the nonfarm official poverty level as defined by the Office of Management and Budget and revised annually. Eligibility for payment of the Medicare Part D subsidy under this paragraph shall be determined by the division.

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

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

SECTION 3. Section 43-17-5, Mississippi Code of 1972, is amended as follows:

43-17-5. (1) The amount of Temporary Assistance for Needy Families (TANF) benefits which may be granted for any dependent child and a needy caretaker relative shall be determined by the county department with due regard to the resources and necessary expenditures of the family and the conditions existing in each case, and in accordance with the rules and regulations made by the Department of Human Services which shall not be less than the Standard of Need in effect for 1988, and shall be sufficient when added to all other income (except that any income specified in the federal Social Security Act, as amended, may be disregarded) and support available to the child to provide such child with a reasonable subsistence compatible with decency and health. The first family member in the dependent child's budget may receive an



amount not to exceed One Hundred Ten Dollars (\$110.00) per month; the second family member in the dependent child's budget may receive an amount not to exceed Thirty-six Dollars (\$36.00) per month; and each additional family member in the dependent child's budget an amount not to exceed Twenty-four Dollars (\$24.00) per month. The maximum for any individual family member in the dependent child's budget may be exceeded for foster or medical care or in cases of children with an intellectual disability or a physical disability. TANF benefits granted shall be specifically limited only (a) to children existing or conceived at the time the caretaker relative initially applies and qualifies for such assistance, unless this limitation is specifically waived by the department, or (b) to a child born following a twelve-consecutive-month period of discontinued benefits by the caretaker relative.

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

(3) The Department of Human Services shall deny TANF benefits to the following categories of individuals, except for individuals and families specifically exempt or excluded for good cause as allowed by federal statute or regulation:

(a) Families without a minor child residing with the custodial parent or other adult caretaker relative of the child;

(b) Families which include an adult who has received TANF assistance for sixty (60) months after the commencement of



the Mississippi TANF program, whether or not such period of time is consecutive;

(c) Families not assigning to the state any rights a family member may have, on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance, to support from any other person, as required by law;

(d) Families who fail to cooperate in establishing paternity or obtaining child support, as required by law;

(e) Any individual who has not attained eighteen (18) years of age, is not married to the head of household, has a minor child at least twelve (12) weeks of age in his or her care, and has not successfully completed a high school education or its equivalent, if such individual does not participate in educational activities directed toward the attainment of a high school diploma or its equivalent, or an alternative educational or training program approved by the department;

(f) Any individual who has not attained eighteen (18) years of age, is not married, has a minor child in his or her care, and does not reside in a place or residence maintained by a parent, legal guardian or other adult relative or the individual as such parent's, guardian's or adult relative's own home;

(g) Any minor child who has been, or is expected by a parent or other caretaker relative of the child to be, absent from the home for a period of more than thirty (30) days;



431 (h) Any individual who is a parent or other caretaker
432 relative of a minor child who fails to notify the department of
433 the absence of the minor child from the home for the thirty-day
434 period specified in paragraph (g), by the end of the five-day
435 period that begins with the date that it becomes clear to the
436 individual that the minor child will be absent for the thirty-day
437 period;

438 (i) Any individual who fails to comply with the
439 provisions of the Employability Development Plan signed by the
440 individual which prescribe those activities designed to help the
441 individual become and remain employed, or to participate
442 satisfactorily in the assigned work activity, as authorized under
443 subsection (6)(c) and (d), or who does not engage in applicant job
444 search activities within the thirty-day period for TANF
445 application approval after receiving the advice and consultation
446 of eligibility workers and/or caseworkers of the department
447 providing a detailed description of available job search venues in
448 the individual's county of residence or the surrounding counties;

449 (j) A parent or caretaker relative who has not engaged
450 in an allowable work activity once the department determines the
451 parent or caretaker relative is ready to engage in work, or once
452 the parent or caretaker relative has received TANF assistance
453 under the program for twenty-four (24) months, whether or not
454 consecutive, whichever is earlier;



455 (k) Any individual who is fleeing to avoid prosecution,
456 or custody or confinement after conviction, under the laws of the
457 jurisdiction from which the individual flees, for a crime, or an
458 attempt to commit a crime, which is a felony under the laws of the
459 place from which the individual flees, or who is violating a
460 condition of probation or parole imposed under federal or state
461 law;

462 (l) Aliens who are not qualified under federal law;

463 (m) For a period of ten (10) years following
464 conviction, individuals convicted in federal or state court of
465 having made a fraudulent statement or representation with respect
466 to the individual's place of residence in order to receive TANF,
467 food stamps or Supplemental Security Income (SSI) assistance under
468 Title XVI or Title XIX simultaneously from two (2) or more
469 states; * * *

470 (n) Individuals who are recipients of federal
471 Supplemental Security Income (SSI) assistance * * *;
472 and

473 (o) Individuals who are not in compliance with the drug
474 testing provisions of Section 1 of this act.

474 (4) (a) Any person who is otherwise eligible for TANF
475 benefits, including custodial and noncustodial parents, shall be
476 required to attend school and meet the monthly attendance
477 requirement as provided in this subsection if all of the following
478 apply:

479 (i) The person is under age twenty (20);



(ii) The person has not graduated from a public or private high school or obtained a GED equivalent;

(iii) The person is physically able to attend school and is not excused from attending school; and

(iv) If the person is a parent or caretaker relative with whom a dependent child is living, child care is available for the child.

The monthly attendance requirement under this subsection shall be attendance at the school in which the person is enrolled for each day during a month that the school conducts classes in which the person is enrolled, with not more than two (2) absences during the month for reasons other than the reasons listed in paragraph (e)(iv) of this subsection. Persons who fail to meet participation requirements in this subsection shall be subject to sanctions as provided in paragraph (f) of this subsection.

(b) As used in this subsection, "school" means any one (1) of the following:

(i) A school as defined in Section 37-13-91(2);

(ii) A vocational, technical and adult education program; or

(iii) A course of study meeting the standards established by the State Department of Education for the granting of a declaration of equivalency of high school graduation.

(c) If any compulsory-school-age child, as defined in Section 37-13-91(2), to which TANF eligibility requirements apply



is not in compliance with the compulsory school attendance requirements of Section 37-13-91(6), the superintendent of schools of the school district in which the child is enrolled or eligible to attend shall notify the county department of human services of the child's noncompliance. The Department of Human Services shall review school attendance information as provided under this paragraph at all initial eligibility determinations and upon subsequent report of unsatisfactory attendance.

(d) The signature of a person on an application for TANF benefits constitutes permission for the release of school attendance records for that person or for any child residing with that person. The department shall request information from the child's school district about the child's attendance in the school district's most recently completed semester of attendance. If information about the child's previous school attendance is not available or cannot be verified, the department shall require the child to meet the monthly attendance requirement for one (1) semester or until the information is obtained. The department shall use the attendance information provided by a school district to verify attendance for a child. The department shall review with the parent or caretaker relative a child's claim that he or she has a good cause for not attending school.

A school district shall provide information to the department about the attendance of a child who is enrolled in a public school in the district within five (5) working days of the receipt of a



530 written request for that information from the department. The
531 school district shall define how many hours of attendance count as
532 a full day and shall provide that information, upon request, to
533 the department. In reporting attendance, the school district may
534 add partial days' absence together to constitute a full day's
535 absence.

536 If a school district fails to provide to the department the
537 information about the school attendance of any child within
538 fifteen (15) working days after a written request, the department
539 shall notify the Department of Audit within three (3) working days
540 of the school district's failure to comply with that requirement.
541 The Department of Audit shall begin audit proceedings within five
542 (5) working days of notification by the Department of Human
543 Services to determine the school district's compliance with the
544 requirements of this subsection (4). If the Department of Audit
545 finds that the school district is not in compliance with the
546 requirements of this subsection, the school district shall be
547 penalized as follows: The Department of Audit shall notify the
548 State Department of Education of the school district's
549 noncompliance, and the Department of Education shall reduce the
550 calculation of the school district's average daily attendance
551 (ADA) that is used to determine the allocation of Mississippi
552 Adequate Education Program funds by the number of children for
553 which the district has failed to provide to the Department of
554 Human Services the required information about the school



attendance of those children. The reduction in the calculation of the school district's ADA under this paragraph shall be effective for a period of one (1) year.

(e) A child who is required to attend school to meet the requirements under this subsection shall comply except when there is good cause, which shall be demonstrated by any of the following circumstances:

(i) The minor parent is the caretaker of a child less than twelve (12) weeks old; or

(ii) The department determines that child care services are necessary for the minor parent to attend school and there is no child care available; or

(iii) The child is prohibited by the school district from attending school and an expulsion is pending. This exemption no longer applies once the teenager has been expelled; however, a teenager who has been expelled and is making satisfactory progress towards obtaining a GED equivalent shall be eligible for TANF benefits; or

(iv) The child failed to attend school for one or more of the following reasons:

1. Illness, injury or incapacity of the child or the minor parent's child;

2. Court-required appearances or temporary incarceration;



579 3. Medical or dental appointments for the
580 child or minor parent's child;
581 4. Death of a close relative;
582 5. Observance of a religious holiday;
583 6. Family emergency;
584 7. Breakdown in transportation;
585 8. Suspension; or
586 9. Any other circumstance beyond the control
587 of the child, as defined in regulations of the department.

588 (f) Upon determination that a child has failed without
589 good cause to attend school as required, the department shall
590 provide written notice to the parent or caretaker relative
591 (whoever is the primary recipient of the TANF benefits) that
592 specifies:

593 (i) That the family will be sanctioned in the next
594 possible payment month because the child who is required to attend
595 school has failed to meet the attendance requirement of this
596 subsection;

597 (ii) The beginning date of the sanction, and the
598 child to whom the sanction applies;

599 (iii) The right of the child's parents or
600 caretaker relative (whoever is the primary recipient of the TANF
601 benefits) to request a fair hearing under this subsection.

602 The child's parent or caretaker relative (whoever is the
603 primary recipient of the TANF benefits) may request a fair hearing



604 on the department's determination that the child has not been
605 attending school. If the child's parents or caretaker relative
606 does not request a fair hearing under this subsection, or if,
607 after a fair hearing has been held, the hearing officer finds that
608 the child without good cause has failed to meet the monthly
609 attendance requirement, the department shall discontinue or deny
610 TANF benefits to the child thirteen (13) years old, or older, in
611 the next possible payment month. The department shall discontinue
612 or deny twenty-five percent (25%) of the family grant when a child
613 six (6) through twelve (12) years of age without good cause has
614 failed to meet the monthly attendance requirement. Both the child
615 and family sanction may apply when children in both age groups
616 fail to meet the attendance requirement without good cause. A
617 sanction applied under this subsection shall be effective for one
618 (1) month for each month that the child failed to meet the monthly
619 attendance requirement. In the case of a dropout, the sanction
620 shall remain in force until the parent or caretaker relative
621 provides written proof from the school district that the child has
622 reenrolled and met the monthly attendance requirement for one (1)
623 calendar month. Any month in which school is in session for at
624 least ten (10) days during the month may be used to meet the
625 attendance requirement under this subsection. This includes
626 attendance at summer school. The sanction shall be removed the
627 next possible payment month.



(5) All parents or caretaker relatives shall have their dependent children receive vaccinations and booster vaccinations against those diseases specified by the State Health Officer under Section 41-23-37 in accordance with the vaccination and booster vaccination schedule prescribed by the State Health Officer for children of that age, in order for the parents or caretaker relatives to be eligible or remain eligible to receive TANF benefits. Proof of having received such vaccinations and booster vaccinations shall be given by presenting the certificates of vaccination issued by any health care provider licensed to administer vaccinations, and submitted on forms specified by the State Board of Health. If the parents without good cause do not have their dependent children receive the vaccinations and booster vaccinations as required by this subsection and they fail to comply after thirty (30) days' notice, the department shall sanction the family's TANF benefits by twenty-five percent (25%) for the next payment month and each subsequent payment month until the requirements of this subsection are met.

(6) (a) If the parent or caretaker relative applying for TANF assistance is work eligible, as determined by the Department of Human Services, the person shall be required to engage in an allowable work activity once the department determines the parent or caretaker relative is determined work eligible, or once the parent or caretaker relative has received TANF assistance under the program for twenty-four (24) months, whether or not



consecutive, whichever is earlier. No TANF benefits shall be given to any person to whom this section applies who fails without good cause to comply with the Employability Development Plan prepared by the department for the person, or who has refused to accept a referral or offer of employment, training or education in which he or she is able to engage, subject to the penalties prescribed in subsection (6)(e). A person shall be deemed to have refused to accept a referral or offer of employment, training or education if he or she:

(i) Willfully fails to report for an interview with respect to employment when requested to do so by the department; or

(ii) Willfully fails to report to the department the result of a referral to employment; or

(iii) Willfully fails to report for allowable work activities as prescribed in subsection (6)(c) and (d).

(b) The Department of Human Services shall operate a statewide work program for TANF recipients to provide work activities and supportive services to enable families to become self-sufficient and improve their competitive position in the workforce in accordance with the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), as amended, and the regulations promulgated thereunder, and the Deficit Reduction Act of 2005 (Public Law 109-171), as amended. Within sixty (60) days after



678 the initial application for TANF benefits, the TANF recipient must
679 participate in a job search skills training workshop or a job
680 readiness program, which shall include résumé writing, job search
681 skills, employability skills and, if available at no charge, the
682 General Aptitude Test Battery or its equivalent. All adults who
683 are not specifically exempt shall be referred by the department
684 for allowable work activities. An adult may be exempt from the
685 mandatory work activity requirement for the following reasons:

686 (i) Incapacity;

687 (ii) Temporary illness or injury, verified by
688 physician's certificate;

689 (iii) Is in the third trimester of pregnancy, and
690 there are complications verified by the certificate of a
691 physician, nurse practitioner, physician assistant, or any other
692 licensed health care professional practicing under a protocol with
693 a licensed physician;

694 (iv) Caretaker of a child under twelve (12)
695 months, for not more than twelve (12) months of the sixty-month
696 maximum benefit period;

697 (v) Caretaker of an ill or incapacitated person,
698 as verified by physician's certificate;

699 (vi) Age, if over sixty (60) or under eighteen
700 (18) years of age;



(vii) Receiving treatment for substance abuse, if the person is in compliance with the substance abuse treatment plan;

(viii) In a two-parent family, the caretaker of a severely disabled child, as verified by a physician's certificate; or

(ix) History of having been a victim of domestic violence, which has been reported as required by state law and is substantiated by police reports or court records, and being at risk of further domestic violence, shall be exempt for a period as deemed necessary by the department but not to exceed a total of twelve (12) months, which need not be consecutive, in the sixty-month maximum benefit period. For the purposes of this subparagraph (ix), "domestic violence" means that an individual has been subjected to:

1. Physical acts that resulted in, or threatened to result in, physical injury to the individual;

2. Sexual abuse;

3. Sexual activity involving a dependent child;

4. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

5. Threats of, or attempts at, physical or sexual abuse;



726 6. Mental abuse; or
727 7. Neglect or deprivation of medical care.

728 (c) For all families, all adults who are not
729 specifically exempt shall be required to participate in work
730 activities for at least the minimum average number of hours per
731 week specified by federal law or regulation, not fewer than twenty
732 (20) hours per week (thirty-five (35) hours per week for
733 two-parent families) of which are attributable to the following
734 allowable work activities:

735 (i) Unsubsidized employment;
736 (ii) Subsidized private employment;
737 (iii) Subsidized public employment;
738 (iv) Work experience (including work associated
739 with the refurbishing of publicly assisted housing), if sufficient
740 private employment is not available;

741 (v) On-the-job training;
742 (vi) Job search and job readiness assistance
743 consistent with federal TANF regulations;

744 (vii) Community service programs;
745 (viii) Vocational educational training (not to
746 exceed twelve (12) months with respect to any individual);

747 (ix) The provision of child care services to an
748 individual who is participating in a community service program;

749 (x) Satisfactory attendance at high school or in a
750 course of study leading to a high school equivalency certificate,



for heads of household under age twenty (20) who have not completed high school or received such certificate;

(xi) Education directly related to employment, for heads of household under age twenty (20) who have not completed high school or received such equivalency certificate.

(d) The following are allowable work activities which may be attributable to hours in excess of the minimum specified in subsection (6) (c):

(i) Job skills training directly related to employment;

(ii) Education directly related to employment for individuals who have not completed high school or received a high school equivalency certificate;

(iii) Satisfactory attendance at high school or in a course of study leading to a high school equivalency, for individuals who have not completed high school or received such equivalency certificate;

(iv) Job search and job readiness assistance consistent with federal TANF regulations.

(e) If any adult or caretaker relative refuses to participate in allowable work activity as required under this subsection (6), the following full family TANF benefit penalty will apply, subject to due process to include notification, conciliation and a hearing if requested by the recipient:



(i) For the first violation, the department shall terminate the TANF assistance otherwise payable to the family for a two-month period or until the person has complied with the required work activity, whichever is longer;

(ii) For the second violation, the department shall terminate the TANF assistance otherwise payable to the family for a six-month period or until the person has complied with the required work activity, whichever is longer;

(iii) For the third violation, the department shall terminate the TANF assistance otherwise payable to the family for a twelve-month period or until the person has complied with the required work activity, whichever is longer;

(iv) For the fourth violation, the person shall be permanently disqualified.

For a two-parent family, unless prohibited by state or federal law, Medicaid assistance shall be terminated only for the person whose failure to participate in allowable work activity caused the family's TANF assistance to be sanctioned under this subsection (6)(e), unless an individual is pregnant, but shall not be terminated for any other person in the family who is meeting that person's applicable work requirement or who is not required to work. Minor children shall continue to be eligible for Medicaid benefits regardless of the disqualification of their parent or caretaker relative for TANF assistance under this subsection (6), unless prohibited by state or federal law.



800 (f) Any person enrolled in a two-year or four-year
801 college program who meets the eligibility requirements to receive
802 TANF benefits, and who is meeting the applicable work requirements
803 and all other applicable requirements of the TANF program, shall
804 continue to be eligible for TANF benefits while enrolled in the
805 college program for as long as the person meets the requirements
806 of the TANF program, unless prohibited by federal law.

807 (g) No adult in a work activity required under this
808 subsection (6) shall be employed or assigned (i) when any other
809 individual is on layoff from the same or any substantially
810 equivalent job within six (6) months before the date of the TANF
811 recipient's employment or assignment; or (ii) if the employer has
812 terminated the employment of any regular employee or otherwise
813 caused an involuntary reduction of its workforce in order to fill
814 the vacancy so created with an adult receiving TANF assistance.
815 The Mississippi Department of Employment Security, established
816 under Section 71-5-101, shall appoint one or more impartial
817 hearing officers to hear and decide claims by employees of
818 violations of this paragraph (g). The hearing officer shall hear
819 all the evidence with respect to any claim made hereunder and such
820 additional evidence as he may require and shall make a
821 determination and the reason therefor. The claimant shall be
822 promptly notified of the decision of the hearing officer and the
823 reason therefor. Within ten (10) days after the decision of the
824 hearing officer has become final, any party aggrieved thereby may



825 secure judicial review thereof by commencing an action, in the
826 circuit court of the county in which the claimant resides, against
827 the department for the review of such decision, in which action
828 any other party to the proceeding before the hearing officer shall
829 be made a defendant. Any such appeal shall be on the record which
830 shall be certified to the court by the department in the manner
831 provided in Section 71-5-531, and the jurisdiction of the court
832 shall be confined to questions of law which shall render its
833 decision as provided in that section.

834 (7) The Department of Human Services may provide child care
835 for eligible participants who require such care so that they may
836 accept employment or remain employed. The department may also
837 provide child care for those participating in the TANF program
838 when it is determined that they are satisfactorily involved in
839 education, training or other allowable work activities. The
840 department may contract with Head Start agencies to provide child
841 care services to TANF recipients. The department may also arrange
842 for child care by use of contract or vouchers, provide vouchers in
843 advance to a caretaker relative, reimburse a child care provider,
844 or use any other arrangement deemed appropriate by the department,
845 and may establish different reimbursement rates for child care
846 services depending on the category of the facility or home. Any
847 center-based or group home child care facility under this
848 subsection shall be licensed by the State Department of Health
849 pursuant to law. When child care is being provided in the child's



own home, in the home of a relative of the child, or in any other unlicensed setting, the provision of such child care may be monitored on a random basis by the Department of Human Services or the State Department of Health. Transitional child care assistance may be continued if it is necessary for parents to maintain employment once support has ended, unless prohibited under state or federal law. Transitional child care assistance may be provided for up to twenty-four (24) months after the last month during which the family was eligible for TANF assistance, if federal funds are available for such child care assistance.

(8) The Department of Human Services may provide transportation or provide reasonable reimbursement for transportation expenses that are necessary for individuals to be able to participate in allowable work activity under the TANF program.

(9) Medicaid assistance shall be provided to a family of TANF program participants for up to twenty-four (24) consecutive calendar months following the month in which the participating family would be ineligible for TANF benefits because of increased income, expiration of earned income disregards, or increased hours of employment of the caretaker relative; however, Medicaid assistance for more than twelve (12) months may be provided only if a federal waiver is obtained to provide such assistance for more than twelve (12) months and federal and state funds are available to provide such assistance.



875 (10) The department shall require applicants for and
876 recipients of public assistance from the department to sign a
877 personal responsibility contract that will require the applicant
878 or recipient to acknowledge his or her responsibilities to the
879 state.

880 (11) The department shall enter into an agreement with the
881 State Personnel Board and other state agencies that will allow
882 those TANF participants who qualify for vacant jobs within state
883 agencies to be placed in state jobs. State agencies participating
884 in the TANF work program shall receive any and all benefits
885 received by employers in the private sector for hiring TANF
886 recipients. This subsection (11) shall be effective only if the
887 state obtains any necessary federal waiver or approval and if
888 federal funds are available therefor.

889 (12) Any unspent TANF funds remaining from the prior fiscal
890 year may be expended for any TANF allowable activities.

891 (13) The Mississippi Department of Human Services shall
892 provide TANF applicants information and referral to programs that
893 provide information about birth control, prenatal health care,
894 abstinence education, marriage education, family preservation and
895 fatherhood.

896 (14) No new TANF program requirement or restriction
897 affecting a person's eligibility for TANF assistance, or allowable
898 work activity, which is not mandated by federal law or regulation
899 may be implemented by the Department of Human Services after July



900 1, 2004, unless such is specifically authorized by an amendment to
901 this section by the Legislature.

902 **SECTION 4.** This act shall take effect and be in force from
903 and after July 1, 2013.

