

By: Senator(s) McDaniel

To: Public Health and Welfare

SENATE BILL NO. 2662

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT THE DIVISION OF MEDICAID FROM IMPLEMENTING THE
3 EXPANSION OF THE MEDICAID PROGRAM PURSUANT TO THE FEDERAL PATIENT
4 PROTECTION AND AFFORDABLE CARE ACT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-13-115, Mississippi Code of 1972, is
7 amended as follows:

8 43-13-115. Recipients of Medicaid shall be the following
9 persons only:

10 (1) Those who are qualified for public assistance
11 grants under provisions of Title IV-A and E of the federal Social
12 Security Act, as amended, including those statutorily deemed to be
13 IV-A and low-income families and children under Section 1931 of
14 the federal Social Security Act. For the purposes of this
15 paragraph (1) and paragraphs (8), (17) and (18) of this section,
16 any reference to Title IV-A or to Part A of Title IV of the
17 federal Social Security Act, as amended, or the state plan under
18 Title IV-A or Part A of Title IV, shall be considered as a
19 reference to Title IV-A of the federal Social Security Act, as



20 amended, and the state plan under Title IV-A, including the income
21 and resource standards and methodologies under Title IV-A and the
22 state plan, as they existed on July 16, 1996. The Department of
23 Human Services shall determine Medicaid eligibility for children
24 receiving public assistance grants under Title IV-E. The division
25 shall determine eligibility for low-income families under Section
26 1931 of the federal Social Security Act and shall redetermine
27 eligibility for those continuing under Title IV-A grants.

28 (2) Those qualified for Supplemental Security Income
29 (SSI) benefits under Title XVI of the federal Social Security Act,
30 as amended, and those who are deemed SSI eligible as contained in
31 federal statute. The eligibility of individuals covered in this
32 paragraph shall be determined by the Social Security
33 Administration and certified to the Division of Medicaid.

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

39 (4) [Deleted]

40 (5) A child born on or after October 1, 1984, to a
41 woman eligible for and receiving Medicaid under the state plan on
42 the date of the child's birth shall be deemed to have applied for
43 Medicaid and to have been found eligible for Medicaid under the
44 plan on the date of that birth, and will remain eligible for



45 Medicaid for a period of one (1) year so long as the child is a
46 member of the woman's household and the woman remains eligible for
47 Medicaid or would be eligible for Medicaid if pregnant. The
48 eligibility of individuals covered in this paragraph shall be
49 determined by the Division of Medicaid.

50 (6) Children certified by the State Department of Human
51 Services to the Division of Medicaid of whom the state and county
52 departments of human services have custody and financial
53 responsibility, and children who are in adoptions subsidized in
54 full or part by the Department of Human Services, including
55 special needs children in non-Title IV-E adoption assistance, who
56 are approvable under Title XIX of the Medicaid program. The
57 eligibility of the children covered under this paragraph shall be
58 determined by the State Department of Human Services.

59 (7) Persons certified by the Division of Medicaid who
60 are patients in a medical facility (nursing home, hospital,
61 tuberculosis sanatorium or institution for treatment of mental
62 diseases), and who, except for the fact that they are patients in
63 that medical facility, would qualify for grants under Title IV,
64 Supplementary Security Income (SSI) benefits under Title XVI or
65 state supplements, and those aged, blind and disabled persons who
66 would not be eligible for Supplemental Security Income (SSI)
67 benefits under Title XVI or state supplements if they were not
68 institutionalized in a medical facility but whose income is below



69 the maximum standard set by the Division of Medicaid, which
70 standard shall not exceed that prescribed by federal regulation.

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

77 (9) Individuals who are:

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

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

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

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

92 (10) Certain disabled children age eighteen (18) or
93 under who are living at home, who would be eligible, if in a



94 medical institution, for SSI or a state supplemental payment under
95 Title XVI of the federal Social Security Act, as amended, and
96 therefore for Medicaid under the plan, and for whom the state has
97 made a determination as required under Section 1902(e)(3)(b) of
98 the federal Social Security Act, as amended. The eligibility of
99 individuals under this paragraph shall be determined by the
100 Division of Medicaid.

101 (11) Until the end of the day on December 31, 2005,
102 individuals who are sixty-five (65) years of age or older or are
103 disabled as determined under Section 1614(a)(3) of the federal
104 Social Security Act, as amended, and whose income does not exceed
105 one hundred thirty-five percent (135%) of the nonfarm official
106 poverty level as defined by the Office of Management and Budget
107 and revised annually, and whose resources do not exceed those
108 established by the Division of Medicaid. The eligibility of
109 individuals covered under this paragraph shall be determined by
110 the Division of Medicaid. After December 31, 2005, only those
111 individuals covered under the 1115(c) Healthier Mississippi waiver
112 will be covered under this category.

113 Any individual who applied for Medicaid during the period
114 from July 1, 2004, through March 31, 2005, who otherwise would
115 have been eligible for coverage under this paragraph (11) if it
116 had been in effect at the time the individual submitted his or her
117 application and is still eligible for coverage under this
118 paragraph (11) on March 31, 2005, shall be eligible for Medicaid



119 coverage under this paragraph (11) from March 31, 2005, through
120 December 31, 2005. The division shall give priority in processing
121 the applications for those individuals to determine their
122 eligibility under this paragraph (11).

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

130 The eligibility of individuals covered under this paragraph
131 shall be determined by the Division of Medicaid, and those
132 individuals determined eligible shall receive Medicare
133 cost-sharing expenses only as more fully defined by the Medicare
134 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
135 1997.

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



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

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

154 (14) [Deleted]

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

164 (16) In accordance with the terms and conditions of
165 approved Title XIX waiver from the United States Department of
166 Health and Human Services, persons provided home- and
167 community-based services who are physically disabled and certified



168 by the Division of Medicaid as eligible due to applying the income
169 and deeming requirements as if they were institutionalized.

170 (17) In accordance with the terms of the federal
171 Personal Responsibility and Work Opportunity Reconciliation Act of
172 1996 (Public Law 104-193), persons who become ineligible for
173 assistance under Title IV-A of the federal Social Security Act, as
174 amended, because of increased income from or hours of employment
175 of the caretaker relative or because of the expiration of the
176 applicable earned income disregards, who were eligible for
177 Medicaid for at least three (3) of the six (6) months preceding
178 the month in which the ineligibility begins, shall be eligible for
179 Medicaid for up to twelve (12) months. The eligibility of the
180 individuals covered under this paragraph shall be determined by
181 the division.

182 (18) Persons who become ineligible for assistance under
183 Title IV-A of the federal Social Security Act, as amended, as a
184 result, in whole or in part, of the collection or increased
185 collection of child or spousal support under Title IV-D of the
186 federal Social Security Act, as amended, who were eligible for
187 Medicaid for at least three (3) of the six (6) months immediately
188 preceding the month in which the ineligibility begins, shall be
189 eligible for Medicaid for an additional four (4) months beginning
190 with the month in which the ineligibility begins. The eligibility
191 of the individuals covered under this paragraph shall be
192 determined by the division.



193 (19) Disabled workers, whose incomes are above the
194 Medicaid eligibility limits, but below two hundred fifty percent
195 (250%) of the federal poverty level, shall be allowed to purchase
196 Medicaid coverage on a sliding fee scale developed by the Division
197 of Medicaid.

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

203 (21) Women of childbearing age whose family income does
204 not exceed one hundred eighty-five percent (185%) of the federal
205 poverty level. The eligibility of individuals covered under this
206 paragraph (21) shall be determined by the Division of Medicaid,
207 and those individuals determined eligible shall only receive
208 family planning services covered under Section 43-13-117(13) and
209 not any other services covered under Medicaid. However, any
210 individual eligible under this paragraph (21) who is also eligible
211 under any other provision of this section shall receive the
212 benefits to which he or she is entitled under that other
213 provision, in addition to family planning services covered under
214 Section 43-13-117(13).

215 The Division of Medicaid shall apply to the United States
216 Secretary of Health and Human Services for a federal waiver of the
217 applicable provisions of Title XIX of the federal Social Security



218 Act, as amended, and any other applicable provisions of federal
219 law as necessary to allow for the implementation of this paragraph
220 (21). The provisions of this paragraph (21) shall be implemented
221 from and after the date that the Division of Medicaid receives the
222 federal waiver.

223 (22) Persons who are workers with a potentially severe
224 disability, as determined by the division, shall be allowed to
225 purchase Medicaid coverage. The term "worker with a potentially
226 severe disability" means a person who is at least sixteen (16)
227 years of age but under sixty-five (65) years of age, who has a
228 physical or mental impairment that is reasonably expected to cause
229 the person to become blind or disabled as defined under Section
230 1614(a) of the federal Social Security Act, as amended, if the
231 person does not receive items and services provided under
232 Medicaid.

233 The eligibility of persons under this paragraph (22) shall be
234 conducted as a demonstration project that is consistent with
235 Section 204 of the Ticket to Work and Work Incentives Improvement
236 Act of 1999, Public Law 106-170, for a certain number of persons
237 as specified by the division. The eligibility of individuals
238 covered under this paragraph (22) shall be determined by the
239 Division of Medicaid.

240 (23) Children certified by the Mississippi Department
241 of Human Services for whom the state and county departments of
242 human services have custody and financial responsibility who are



243 in foster care on their eighteenth birthday as reported by the
244 Mississippi Department of Human Services shall be certified
245 Medicaid eligible by the Division of Medicaid until their
246 twenty-first birthday.

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

257 (25) The division shall apply to the Centers for
258 Medicare and Medicaid Services (CMS) for any necessary waivers to
259 provide services to individuals who are sixty-five (65) years of
260 age or older or are disabled as determined under Section
261 1614(a)(3) of the federal Social Security Act, as amended, and
262 whose income does not exceed one hundred thirty-five percent
263 (135%) of the nonfarm official poverty level as defined by the
264 Office of Management and Budget and revised annually, and whose
265 resources do not exceed those established by the Division of
266 Medicaid, and who are not otherwise covered by Medicare. Nothing
267 contained in this paragraph (25) shall entitle an individual to



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

270 (26) The division shall apply to the Centers for
271 Medicare and Medicaid Services (CMS) for any necessary waivers to
272 provide services to individuals who are sixty-five (65) years of
273 age or older or are disabled as determined under Section
274 1614(a)(3) of the federal Social Security Act, as amended, who are
275 end stage renal disease patients on dialysis, cancer patients on
276 chemotherapy or organ transplant recipients on antirejection
277 drugs, whose income does not exceed one hundred thirty-five
278 percent (135%) of the nonfarm official poverty level as defined by
279 the Office of Management and Budget and revised annually, and
280 whose resources do not exceed those established by the division.
281 Nothing contained in this paragraph (26) shall entitle an
282 individual to benefits. The eligibility of individuals covered
283 under this paragraph shall be determined by the Division of
284 Medicaid.

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



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

294 Notwithstanding any provision of law to the contrary, the
295 Division of Medicaid shall not establish, facilitate, implement or
296 participate in the expansion of the Medicaid program pursuant to
297 the Patient Protection and Affordable Care Act, Public Law
298 111-148, as amended.

299 **SECTION 2.** This act shall take effect and be in force from
300 and after its passage.

