

By: Representative Howell

To: Medicaid

HOUSE BILL NO. 1

1 AN ACT TO AMEND SECTION 43-13-107, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE AUTOMATIC REPEALER ON THE STATUTE THAT ESTABLISHES
3 THE DIVISION OF MEDICAID AND THE POSITION OF EXECUTIVE DIRECTOR OF
4 THE DIVISION; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-13-107, Mississippi Code of 1972, is
7 amended as follows:

8 43-13-107. (1) The Division of Medicaid is created in the
9 Office of the Governor and established to administer this article
10 and perform such other duties as are prescribed by law.

11 (2) (a) The Governor shall appoint a full-time executive
12 director, with the advice and consent of the Senate, who shall be
13 either (i) a physician with administrative experience in a medical
14 care or health program, or (ii) a person holding a graduate degree
15 in medical care administration, public health, hospital
16 administration, or the equivalent, or (iii) a person holding a
17 bachelor's degree in business administration or hospital
18 administration, with at least ten (10) years' experience in
19 management-level administration of Medicaid programs. The



20 executive director shall be the official secretary and legal
21 custodian of the records of the division; shall be the agent of
22 the division for the purpose of receiving all service of process,
23 summons and notices directed to the division; shall perform such
24 other duties as the Governor may prescribe from time to time; and
25 shall perform all other duties that are now or may be imposed upon
26 him or her by law.

27 (b) The executive director shall serve at the will and
28 pleasure of the Governor.

29 (c) The executive director shall, before entering upon
30 the discharge of the duties of the office, take and subscribe to
31 the oath of office prescribed by the Mississippi Constitution and
32 shall file the same in the Office of the Secretary of State, and
33 shall execute a bond in some surety company authorized to do
34 business in the state in the penal sum of One Hundred Thousand
35 Dollars (\$100,000.00), conditioned for the faithful and impartial
36 discharge of the duties of the office. The premium on the bond
37 shall be paid as provided by law out of funds appropriated to the
38 Division of Medicaid for contractual services.

39 (d) The executive director, with the approval of the
40 Governor and subject to the rules and regulations of the State
41 Personnel Board, shall employ such professional, administrative,
42 stenographic, secretarial, clerical and technical assistance as
43 may be necessary to perform the duties required in administering
44 this article and fix the compensation for those persons, all in



45 accordance with a state merit system meeting federal requirements.
46 When the salary of the executive director is not set by law, that
47 salary shall be set by the State Personnel Board. No employees of
48 the Division of Medicaid shall be considered to be staff members
49 of the immediate Office of the Governor; however, Section
50 25-9-107(c) (xv) shall apply to the executive director and other
51 administrative heads of the division.

52 (3) (a) There is established a Medical Care Advisory
53 Committee, which shall be the committee that is required by
54 federal regulation to advise the Division of Medicaid about health
55 and medical care services.

56 (b) The advisory committee shall consist of not less
57 than eleven (11) members, as follows:

58 (i) The Governor shall appoint five (5) members,
59 one (1) from each congressional district and one (1) from the
60 state at large;

61 (ii) The Lieutenant Governor shall appoint three
62 (3) members, one (1) from each Supreme Court district;

63 (iii) The Speaker of the House of Representatives
64 shall appoint three (3) members, one (1) from each Supreme Court
65 district.

66 All members appointed under this paragraph shall either be
67 health care providers or consumers of health care services. One
68 (1) member appointed by each of the appointing authorities shall
69 be a board certified physician.



70 (c) The respective Chairmen of the House Medicaid
71 Committee, the House Public Health and Human Services Committee,
72 the House Appropriations Committee, the Senate Public Health and
73 Welfare Committee and the Senate Appropriations Committee, or
74 their designees, two (2) members of the State Senate appointed by
75 the Lieutenant Governor and one (1) member of the House of
76 Representatives appointed by the Speaker of the House, shall serve
77 as ex officio nonvoting members of the advisory committee.

78 (d) In addition to the committee members required by
79 paragraph (b), the advisory committee shall consist of such other
80 members as are necessary to meet the requirements of the federal
81 regulation applicable to the advisory committee, who shall be
82 appointed as provided in the federal regulation.

83 (e) The chairmanship of the advisory committee shall be
84 elected by the voting members of the committee annually and shall
85 not serve more than two (2) consecutive years as chairman.

86 (f) The members of the advisory committee specified in
87 paragraph (b) shall serve for terms that are concurrent with the
88 terms of members of the Legislature, and any member appointed
89 under paragraph (b) may be reappointed to the advisory committee.
90 The members of the advisory committee specified in paragraph (b)
91 shall serve without compensation, but shall receive reimbursement
92 to defray actual expenses incurred in the performance of committee
93 business as authorized by law. Legislators shall receive per diem
94 and expenses, which may be paid from the contingent expense funds



95 of their respective houses in the same amounts as provided for
96 committee meetings when the Legislature is not in session.

97 (g) The advisory committee shall meet not less than
98 quarterly, and advisory committee members shall be furnished
99 written notice of the meetings at least ten (10) days before the
100 date of the meeting.

101 (h) The executive director shall submit to the advisory
102 committee all amendments, modifications and changes to the state
103 plan for the operation of the Medicaid program, for review by the
104 advisory committee before the amendments, modifications or changes
105 may be implemented by the division.

106 (i) The advisory committee, among its duties and
107 responsibilities, shall:

108 (i) Advise the division with respect to
109 amendments, modifications and changes to the state plan for the
110 operation of the Medicaid program;

111 (ii) Advise the division with respect to issues
112 concerning receipt and disbursement of funds and eligibility for
113 Medicaid;

114 (iii) Advise the division with respect to
115 determining the quantity, quality and extent of medical care
116 provided under this article;

117 (iv) Communicate the views of the medical care
118 professions to the division and communicate the views of the
119 division to the medical care professions;



120 (v) Gather information on reasons that medical
121 care providers do not participate in the Medicaid program and
122 changes that could be made in the program to encourage more
123 providers to participate in the Medicaid program, and advise the
124 division with respect to encouraging physicians and other medical
125 care providers to participate in the Medicaid program;

126 (vi) Provide a written report on or before
127 November 30 of each year to the Governor, Lieutenant Governor and
128 Speaker of the House of Representatives.

129 (4) (a) There is established a Drug Use Review Board, which
130 shall be the board that is required by federal law to:

131 (i) Review and initiate retrospective drug use,
132 review including ongoing periodic examination of claims data and
133 other records in order to identify patterns of fraud, abuse, gross
134 overuse, or inappropriate or medically unnecessary care, among
135 physicians, pharmacists and individuals receiving Medicaid
136 benefits or associated with specific drugs or groups of drugs.

137 (ii) Review and initiate ongoing interventions for
138 physicians and pharmacists, targeted toward therapy problems or
139 individuals identified in the course of retrospective drug use
140 reviews.

141 (iii) On an ongoing basis, assess data on drug use
142 against explicit predetermined standards using the compendia and
143 literature set forth in federal law and regulations.



144 (b) The board shall consist of not less than twelve
145 (12) members appointed by the Governor, or his designee.

146 (c) The board shall meet at least quarterly, and board
147 members shall be furnished written notice of the meetings at least
148 ten (10) days before the date of the meeting.

149 (d) The board meetings shall be open to the public,
150 members of the press, legislators and consumers. Additionally,
151 all documents provided to board members shall be available to
152 members of the Legislature in the same manner, and shall be made
153 available to others for a reasonable fee for copying. However,
154 patient confidentiality and provider confidentiality shall be
155 protected by blinding patient names and provider names with
156 numerical or other anonymous identifiers. The board meetings
157 shall be subject to the Open Meetings Act (Sections 25-41-1
158 through 25-41-17). Board meetings conducted in violation of this
159 section shall be deemed unlawful.

160 (5) (a) There is established a Pharmacy and Therapeutics
161 Committee, which shall be appointed by the Governor, or his
162 designee.

163 (b) The committee shall meet at least quarterly, and
164 committee members shall be furnished written notice of the
165 meetings at least ten (10) days before the date of the meeting.

166 (c) The committee meetings shall be open to the public,
167 members of the press, legislators and consumers. Additionally,
168 all documents provided to committee members shall be available to



169 members of the Legislature in the same manner, and shall be made
170 available to others for a reasonable fee for copying. However,
171 patient confidentiality and provider confidentiality shall be
172 protected by blinding patient names and provider names with
173 numerical or other anonymous identifiers. The committee meetings
174 shall be subject to the Open Meetings Act (Sections 25-41-1
175 through 25-41-17). Committee meetings conducted in violation of
176 this section shall be deemed unlawful.

177 (d) After a thirty-day public notice, the executive
178 director, or his or her designee, shall present the division's
179 recommendation regarding prior approval for a therapeutic class of
180 drugs to the committee. However, in circumstances where the
181 division deems it necessary for the health and safety of Medicaid
182 beneficiaries, the division may present to the committee its
183 recommendations regarding a particular drug without a thirty-day
184 public notice. In making that presentation, the division shall
185 state to the committee the circumstances that precipitate the need
186 for the committee to review the status of a particular drug
187 without a thirty-day public notice. The committee may determine
188 whether or not to review the particular drug under the
189 circumstances stated by the division without a thirty-day public
190 notice. If the committee determines to review the status of the
191 particular drug, it shall make its recommendations to the
192 division, after which the division shall file those



193 recommendations for a thirty-day public comment under Section
194 25-43-7(1).

195 (e) Upon reviewing the information and recommendations,
196 the committee shall forward a written recommendation approved by a
197 majority of the committee to the executive director, or his or her
198 designee. The decisions of the committee regarding any
199 limitations to be imposed on any drug or its use for a specified
200 indication shall be based on sound clinical evidence found in
201 labeling, drug compendia, and peer reviewed clinical literature
202 pertaining to use of the drug in the relevant population.

203 (f) Upon reviewing and considering all recommendations
204 including recommendations of the committee, comments, and data,
205 the executive director shall make a final determination whether to
206 require prior approval of a therapeutic class of drugs, or modify
207 existing prior approval requirements for a therapeutic class of
208 drugs.

209 (g) At least thirty (30) days before the executive
210 director implements new or amended prior authorization decisions,
211 written notice of the executive director's decision shall be
212 provided to all prescribing Medicaid providers, all Medicaid
213 enrolled pharmacies, and any other party who has requested the
214 notification. However, notice given under Section 25-43-7(1) will
215 substitute for and meet the requirement for notice under this
216 subsection.



217 (h) Members of the committee shall dispose of matters
218 before the committee in an unbiased and professional manner. If a
219 matter being considered by the committee presents a real or
220 apparent conflict of interest for any member of the committee,
221 that member shall disclose the conflict in writing to the
222 committee chair and recuse himself or herself from any discussions
223 and/or actions on the matter.

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225 **SECTION 2.** This act shall take effect and be in force from
226 and after July 1, 2013.

