

By: Senator(s) Burton, McDaniel, Watson

To: Insurance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2687

1 AN ACT TO CREATE THE MISSISSIPPI DIRECT PRIMARY CARE ACT; TO
2 PROVIDE DEFINITIONS; TO PROVIDE THAT A DIRECT PRIMARY CARE
3 AGREEMENT SHALL NOT BE CONSIDERED TO BE AN INSURANCE PRODUCT NOR
4 SHALL THE PRIMARY CARE PROVIDER BE CONSIDERED TO BE ENGAGING IN
5 THE BUSINESS OF INSURANCE; TO PROVIDE THAT A PRIMARY CARE PROVIDER
6 OR AGENT OF A PRIMARY CARE PROVIDER IS NOT REQUIRED TO OBTAIN A
7 CERTIFICATE OF AUTHORITY OR LICENSE UNDER THE ACT TO MARKET, SELL,
8 OR OFFER TO SELL A DIRECT PRIMARY CARE AGREEMENT; TO PROVIDE THE
9 REQUIREMENTS FOR OFFERING A DIRECT PRIMARY CARE SERVICE AND
10 AGREEMENT; TO PROVIDE CERTAIN REQUIREMENTS ON PRIMARY CARE
11 PROVIDERS WHO OFFER DIRECT PRIMARY CARE SERVICES; TO AMEND SECTION
12 83-1-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ACT SHALL
13 NOT BE SUBJECT TO THE JURISDICTION OF THE STATE INSURANCE
14 DEPARTMENT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Sections 1 through 6 of this act shall be known
17 as the "Mississippi Direct Primary Care Act."

18 **SECTION 2.** As used in Sections 1 through 6 of this act, the
19 following words and phrases have the meanings as defined in this
20 section unless the context clearly indicates otherwise:

21 (a) "Primary care provider" means an individual or
22 other legal entity that is licensed, registered or otherwise
23 authorized to provide primary care services in this state under
24 Chapter 25, Title 73, Mississippi Code of 1972. Primary care



25 provider includes an individual or other legal entity alone or
26 with others professionally associated with the individual or other
27 legal entity.

28 (b) "Direct primary care agreement" means a contract
29 between a primary care provider and an individual patient or his
30 or her legal representative or between a primary care provider and
31 an employer on behalf of its employees in which the primary care
32 provider agrees to provide primary care services to the individual
33 patient for an agreed-upon fee and period of time.

34 (c) "Direct primary care service" means a service that
35 is provided by charging a periodic fee-for-services; not billing
36 any third parties on a fee-for-service basis for the individual
37 covered by the direct primary care agreement; and allowing for a
38 per visit fee to be charged to the patient at the time of service.

39 (d) "Primary care service" includes, but is not limited
40 to, the screening, assessment, diagnosis, and treatment for the
41 purpose of promotion of health or the detection and management of
42 disease or injury within the competency, training, and scope of
43 the primary care provider. This may also include fees for
44 advanced technology or techniques used within the practice that
45 may offer benefits for improved patient engagement.

46 **SECTION 3.** A direct primary care agreement shall not be
47 considered to be an insurance product nor shall the primary care
48 provider be considered to be engaging in the business of insurance
49 for the purpose of this Title 83, Mississippi Code of 1972.



50 **SECTION 4.** A primary care provider or agent of a primary
51 care provider is not required to obtain a certificate of authority
52 or license under Sections 1 through 6 of this act to market, sell,
53 or offer to sell a direct primary care agreement.

54 **SECTION 5.** To offer a direct primary care service, the
55 primary care provider must obtain a completed direct primary care
56 agreement for each patient obtaining direct primary care services.
57 In order to be considered a direct primary care agreement for the
58 purposes of this section, the direct primary care agreement must
59 meet all of the following requirements:

60 (a) Be in writing;

61 (b) Be signed by the individual patient or his or her
62 legal representative and be made available for the records of the
63 primary care provider or agent of the primary care provider;

64 (c) Allow either party to terminate the agreement on
65 written notice to the other party;

66 (d) Describe the scope of primary care services that
67 are covered by the periodic fee;

68 (e) Specify the periodic fee for ongoing care under the
69 agreement;

70 (f) Specify the duration of the agreement, any
71 automatic renewal periods, and prohibit the prepayment of the
72 agreement. Upon discontinuing the agreement, all unearned funds,
73 as determined by the lesser of normal undiscounted fee-for-service
74 charges that would have been billed in place of the agreement or



75 the remainder of the membership contract, are returned to the
76 patient. Upon termination of the agreement, the patient shall not
77 be liable for the remainder of payment associated with the
78 agreement or membership contract. However, the patient shall be
79 responsible for the true cost of services rendered regardless of
80 when the contract is terminated.

81 (g) Prominently state in writing the following:

82 (i) That the agreement is not health insurance;

83 (ii) That the agreement standing alone does not
84 satisfy the health benefit requirements as established in the
85 federal Affordable Care Act; and

86 (iii) That, without adequate insurance coverage in
87 addition to this agreement, the patient may be subject to fines
88 and penalties associated with the federal Affordable Care Act.

89 **SECTION 6.** Those primary care providers who offer direct
90 primary care services to their patients may not decline to accept
91 new direct primary care patients or discontinue care to existing
92 patients solely because of the patient's health status. A direct
93 primary care provider may decline to accept a patient if the
94 practice has reached its maximum capacity, or if the patient's
95 medical condition is such that the provider is unable to provide
96 the appropriate level and type of primary care services the
97 patient requires. So long as the direct primary care provider
98 provides the patient notice and opportunity to obtain care from



99 another physician, the direct primary care provider may
100 discontinue care for direct primary care patients if:
101 (a) The patient fails to pay the periodic fee;
102 (b) The patient has performed an act of fraud;
103 (c) The patient repeatedly fails to adhere to the
104 recommended treatment plan;
105 (d) The patient is abusive and presents an emotional or
106 physical danger to the staff or other patients of the direct
107 practice;
108 (e) The direct primary care provider discontinues
109 operation as a direct primary care provider; or
110 (f) The direct primary care physician feels that the
111 relationship is no longer therapeutic for the patient due to a
112 dysfunctional physician/patient relationship.

113 **SECTION 7.** Section 83-1-101, Mississippi Code of 1972, is
114 amended as follows:

115 83-1-101. Notwithstanding any other provision of law to the
116 contrary, and except as provided herein, any person or other
117 entity which provides coverage in this state for medical,
118 surgical, chiropractic, physical therapy, speech pathology,
119 audiology, professional mental health, dental, hospital, or
120 optometric expenses, whether such coverage is by direct payment,
121 reimbursement, or otherwise, shall be presumed to be subject to
122 the jurisdiction of the State * * * Insurance Department, unless
123 (a) the person or other entity shows that while providing such



124 services it is subject to the jurisdiction of another agency of
125 this state, any subdivisions thereof, or the federal government;
126 or (b) the person or other entity is providing coverage under the
127 Direct Primary Care Act in Sections 1 through 6 of this act.

128 **SECTION 8.** This act shall take effect and be in force from
129 and after July 1, 2015.

