

By: Representative Eubanks

To: Public Health and Human  
Services

## HOUSE BILL NO. 387

1 AN ACT TO PROVIDE THAT RECIPIENTS OF PUBLIC ASSISTANCE  
2 BENEFITS WHO ARE 18 YEARS OF AGE OR OLDER SHALL BE REQUIRED TO  
3 TAKE A DRUG TEST ANNUALLY AND SHALL BE SUBJECT TO TAKING A DRUG  
4 TEST ON A RANDOM BASIS TO DETERMINE THEIR ELIGIBILITY TO CONTINUE  
5 RECEIVING THE BENEFITS; TO PROVIDE THAT IF A RECIPIENT REFUSES TO  
6 TAKE THE REQUIRED DRUG TEST, THE ADMINISTERING AGENCY SHALL  
7 TERMINATE THE RECIPIENT'S PUBLIC ASSISTANCE BENEFITS AND THE  
8 RECIPIENT SHALL NOT BE ELIGIBLE TO RECEIVE PUBLIC ASSISTANCE  
9 BENEFITS FOR 30 DAYS AFTER A FIRST REFUSAL TO TAKE A DRUG TEST  
10 WITHIN ONE YEAR, OR FOR SIX MONTHS AFTER A SECOND REFUSAL TO TAKE  
11 A DRUG TEST WITHIN ONE YEAR; TO PROVIDE THAT ANY PERSON WHO IS  
12 INELIGIBLE FOR PUBLIC ASSISTANCE BENEFITS FOR THE REQUIRED PERIOD  
13 MAY REAPPLY TO RECEIVE PUBLIC ASSISTANCE BENEFITS AFTER NOT  
14 RECEIVING THE BENEFITS FOR THE REQUIRED PERIOD, AND WILL BE  
15 ELIGIBLE TO RECEIVE THE BENEFITS AGAIN IF THE PERSON PASSES A DRUG  
16 TEST; TO PROVIDE THAT IF A RECIPIENT OF PUBLIC ASSISTANCE BENEFITS  
17 IS GIVEN A DRUG TEST AND HE OR SHE TESTS POSITIVE FOR ANY DRUG FOR  
18 WHICH A PERSON DOES NOT HAVE A VALID PRESCRIPTION, OR TESTS  
19 POSITIVE FOR A DRUG FOR WHICH THE PERSON HAS A VALID PRESCRIPTION  
20 WITH A DOSAGE IN THE BODY THAT IS HIGHER THAN THE AMOUNT  
21 AUTHORIZED BY THE PRESCRIPTION, THE ADMINISTERING AGENCY SHALL  
22 TERMINATE THE RECIPIENT'S PUBLIC ASSISTANCE BENEFITS AND THE  
23 RECIPIENT SHALL NOT BE ELIGIBLE TO RECEIVE PUBLIC ASSISTANCE  
24 BENEFITS FOR 90 DAYS, OR FOR ONE YEAR IF THE RECIPIENT HAS TESTED  
25 POSITIVE ON THE DRUG TEST ON AT LEAST ONE OTHER OCCASION; TO  
26 PROVIDE THAT ANY PERSON WHO IS INELIGIBLE FOR PUBLIC ASSISTANCE  
27 BENEFITS FOR THE REQUIRED PERIOD MAY REAPPLY TO RECEIVE PUBLIC  
28 ASSISTANCE BENEFITS AFTER NOT RECEIVING THE BENEFITS FOR THE  
29 REQUIRED PERIOD, AND WILL BE ELIGIBLE TO RECEIVE THE BENEFITS  
30 AGAIN IF THE PERSON PASSES ANOTHER DRUG TEST; TO PROVIDE THAT THE  
31 STATE DEPARTMENT OF HEALTH SHALL PERFORM THE DRUG TESTS AUTHORIZED  
32 BY THIS ACT, AND THE COST OF THE DRUG TESTS SHALL BE PAID BY THE  
33 RECIPIENT; TO PROVIDE THAT IF A RECIPIENT TESTS NEGATIVE ON THE  
34 DRUG TEST, THEN THE ADMINISTERING AGENCY SHALL REPAY THE RECIPIENT



FOR THE AMOUNT OF THE DRUG TEST; TO AMEND SECTIONS 43-13-115 AND 43-17-5, MISSISSIPPI CODE OF 1972, AND TO REPEAL SECTION 43-17-6, MISSISSIPPI CODE OF 1972, WHICH REQUIRES CERTAIN ADULT RECIPIENTS OF TANF BENEFITS TO TAKE A DRUG TEST AND PARTICIPATE IN A SUBSTANCE ABUSE DISORDER TREATMENT PLAN, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

(a) "Drug" means a controlled substance as defined in Section 41-29-105.

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

(c) "Public assistance benefits" means any payments or grants under the Temporary Assistance for Needy Families (TANF) program, medical assistance services under the Medicaid program, and any other economic assistance payments or services provided by the Department of Human Services that are funded, in whole or in part, with state funds.

(2) Recipients of public assistance benefits who are eighteen (18) years of age or older shall be required to take a drug test annually and shall be subject to taking a drug test on a random basis to determine their eligibility to continue receiving the benefits.

(3) If a recipient refuses to take the required drug test, the administering agency shall terminate the recipient's public assistance benefits and the recipient shall not be eligible to receive public assistance benefits for:



63           (a) Thirty (30) days after a first refusal to take a  
64 drug test within one (1) year; or

65           (b) Six (6) months after a second refusal to take a  
66 drug test within one (1) year.

67       Any person who is ineligible for public assistance benefits  
68 under paragraph (a) may reapply to receive public assistance  
69 benefits after not receiving the benefits for thirty (30) days,  
70 and any person who is ineligible for public assistance benefits  
71 under paragraph (b) may reapply to receive public assistance  
72 benefits after not receiving the benefits for six (6) months, and  
73 the person will be eligible to receive the benefits again if the  
74 person passes a drug test.

75       (4) If a recipient is given a drug test and he or she tests  
76 positive for any drug for which a person does not have a valid  
77 prescription, or tests positive for a drug for which the person  
78 has a valid prescription with a dosage in the body that is higher  
79 than the amount authorized by the prescription, the administering  
80 agency shall terminate the recipient's public assistance benefits  
81 and the recipient shall not be eligible to receive public  
82 assistance benefits for:

83           (a) Ninety (90) days after the day on which the  
84 administering agency determines that the person is no longer  
85 eligible for public assistance benefits under this subsection; or

86           (b) One (1) year after the day on which the  
87 administering agency determines that the person is no longer



88 eligible for public assistance benefits under this subsection, if  
89 the administering agency has previously determined on at least one  
90 (1) other occasion that the person is no longer eligible for  
91 public assistance benefits under this subsection.

92 Any person who is ineligible for public assistance benefits  
93 under paragraph (a) may reapply to receive public assistance  
94 benefits after not receiving the benefits for ninety (90) days,  
95 and any person who is ineligible for public assistance benefits  
96 under paragraph (b) may reapply to receive public assistance  
97 benefits after not receiving the benefits for one (1) year, and  
98 the person will be eligible to receive the benefits again if the  
99 person passes another drug test.

100 (5) The State Department of Health shall perform the drug  
101 tests required by this section, and the cost of the drug tests  
102 shall be paid by the recipient. However, if a recipient takes the  
103 drug test and tests negative for any drug for which a person does  
104 not have a valid prescription, or tests negative for a drug for  
105 which the person has a valid prescription with a dosage in the  
106 body that is higher than the amount authorized by the  
107 prescription, then the administering agency shall repay the  
108 recipient for the amount of the drug test, either in cash or by  
109 increasing the amount of the recipient's public assistance  
110 benefits for the next month by the amount paid by the recipient  
111 for the drug test.



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

114           43-13-115. A. Recipients of Medicaid shall be the following  
115 persons only:

116           (1) Those who are qualified for public assistance  
117 grants under provisions of Title IV-A and E of the federal Social  
118 Security Act, as amended, including those statutorily deemed to be  
119 IV-A and low-income families and children under Section 1931 of  
120 the federal Social Security Act. For the purposes of this  
121 paragraph (1) and paragraphs (8), (17) and (18) of this section,  
122 any reference to Title IV-A or to Part A of Title IV of the  
123 federal Social Security Act, as amended, or the state plan under  
124 Title IV-A or Part A of Title IV, shall be considered as a  
125 reference to Title IV-A of the federal Social Security Act, as  
126 amended, and the state plan under Title IV-A, including the income  
127 and resource standards and methodologies under Title IV-A and the  
128 state plan, as they existed on July 16, 1996. The Department of  
129 Human Services shall determine Medicaid eligibility for children  
130 receiving public assistance grants under Title IV-E. The division  
131 shall determine eligibility for low-income families under Section  
132 1931 of the federal Social Security Act and shall redetermine  
133 eligibility for those continuing under Title IV-A grants.

134           (2) Those qualified for Supplemental Security Income  
135 (SSI) benefits under Title XVI of the federal Social Security Act,  
136 as amended, and those who are deemed SSI eligible as contained in



137 federal statute. The eligibility of individuals covered in this  
138 paragraph shall be determined by the Social Security  
139 Administration and certified to the Division of Medicaid.

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

145 (4) [Deleted]

146 (5) A child born on or after October 1, 1984, to a  
147 woman eligible for and receiving Medicaid under the state plan on  
148 the date of the child's birth shall be deemed to have applied for  
149 Medicaid and to have been found eligible for Medicaid under the  
150 plan on the date of that birth, and will remain eligible for  
151 Medicaid for a period of one (1) year so long as the child is a  
152 member of the woman's household and the woman remains eligible for  
153 Medicaid or would be eligible for Medicaid if pregnant. The  
154 eligibility of individuals covered in this paragraph shall be  
155 determined by the Division of Medicaid.

156 (6) Children certified by the State Department of Human  
157 Services to the Division of Medicaid of whom the state and county  
158 departments of human services have custody and financial  
159 responsibility, and children who are in adoptions subsidized in  
160 full or part by the Department of Human Services, including  
161 special needs children in non-Title IV-E adoption assistance, who



are approvable under Title XIX of the Medicaid program. The eligibility of the children covered under this paragraph shall be determined by the State Department of Human Services.

(7) Persons certified by the Division of Medicaid who are patients in a medical facility (nursing home, hospital, tuberculosis sanatorium or institution for treatment of mental diseases), and who, except for the fact that they are patients in 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 exceed one hundred eighty-five percent (185%) of the federal poverty level.

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

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

(11) Until the end of the day on December 31, 2005, 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 whose income does not exceed





one hundred thirty-five percent (135%) of the nonfarm official poverty level as defined by the Office of Management and Budget and revised annually, and whose resources do not exceed those established by the Division of Medicaid. The eligibility of individuals covered under this paragraph shall be determined by the Division of Medicaid. After December 31, 2005, only those individuals covered under the 1115(c) Healthier Mississippi waiver 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.



236           The eligibility of individuals covered under this paragraph  
237 shall be determined by the Division of Medicaid, and those  
238 individuals determined eligible shall receive Medicare  
239 cost-sharing expenses only as more fully defined by the Medicare  
240 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of  
241 1997.

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

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

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

260           (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



361 individuals under this paragraph (24) shall be determined by the  
362 Division of Medicaid.

363           (25) The division shall apply to the Centers for  
364 Medicare and Medicaid Services (CMS) for any necessary waivers to  
365 provide services to individuals who are sixty-five (65) years of  
366 age or older or are disabled as determined under Section  
367 1614(a)(3) of the federal Social Security Act, as amended, and  
368 whose income does not exceed one hundred thirty-five percent  
369 (135%) of the nonfarm official poverty level as defined by the  
370 Office of Management and Budget and revised annually, and whose  
371 resources do not exceed those established by the Division of  
372 Medicaid, and who are not otherwise covered by Medicare. Nothing  
373 contained in this paragraph (25) shall entitle an individual to  
374 benefits. The eligibility of individuals covered under this  
375 paragraph shall be determined by the Division of Medicaid.

376           (26) The division shall apply to the Centers for  
377 Medicare and Medicaid Services (CMS) for any necessary waivers to  
378 provide services to individuals who are sixty-five (65) years of  
379 age or older or are disabled as determined under Section  
380 1614(a)(3) of the federal Social Security Act, as amended, who are  
381 end stage renal disease patients on dialysis, cancer patients on  
382 chemotherapy or organ transplant recipients on antirejection  
383 drugs, whose income does not exceed one hundred thirty-five  
384 percent (135%) of the nonfarm official poverty level as defined by  
385 the Office of Management and Budget and revised annually, and



whose resources do not exceed those established by the division. Nothing contained in this paragraph (26) shall entitle an individual to benefits. The eligibility of individuals covered under this paragraph shall be determined by the Division of Medicaid.

(27) Individuals who are entitled to Medicare Part D 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 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;



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

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

468           (h) Any individual who is a parent or other caretaker  
469 relative of a minor child who fails to notify the department of  
470 the absence of the minor child from the home for the thirty-day  
471 period specified in paragraph (g), by the end of the five-day  
472 period that begins with the date that it becomes clear to the  
473 individual that the minor child will be absent for the thirty-day  
474 period;

475           (i) Any individual who fails to comply with the  
476 provisions of the Employability Development Plan signed by the  
477 individual which prescribe those activities designed to help the  
478 individual become and remain employed, or to participate  
479 satisfactorily in the assigned work activity, as authorized under  
480 subsection (6)(c) and (d), or who does not engage in applicant job  
481 search activities within the thirty-day period for TANF  
482 application approval after receiving the advice and consultation  
483 of eligibility workers and/or caseworkers of the department



484 providing a detailed description of available job search venues in  
485 the individual's county of residence or the surrounding counties;

486 (j) A parent or caretaker relative who has not engaged  
487 in an allowable work activity once the department determines the  
488 parent or caretaker relative is ready to engage in work, or once  
489 the parent or caretaker relative has received TANF assistance  
490 under the program for twenty-four (24) months, whether or not  
491 consecutive, whichever is earlier;

492 (k) Any individual who is fleeing to avoid prosecution,  
493 or custody or confinement after conviction, under the laws of the  
494 jurisdiction from which the individual flees, for a crime, or an  
495 attempt to commit a crime, which is a felony under the laws of the  
496 place from which the individual flees, or who is violating a  
497 condition of probation or parole imposed under federal or state  
498 law;

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

500 (m) For a period of ten (10) years following  
501 conviction, individuals convicted in federal or state court of  
502 having made a fraudulent statement or representation with respect  
503 to the individual's place of residence in order to receive TANF,  
504 food stamps or Supplemental Security Income (SSI) assistance under  
505 Title XVI or Title XIX simultaneously from two (2) or more states;

506 (n) Individuals who are recipients of federal  
507 Supplemental Security Income (SSI) assistance; and



508           (o) Individuals who are eighteen (18) years of age or  
509 older who are not in compliance with the drug testing \* \* \*  
510 provisions of Section \* \* \* 1 of this act.

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

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

517                       (ii) The person has not graduated from a public or  
518 private high school or obtained a High School Equivalency Diploma  
519 equivalent;

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

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

525           The monthly attendance requirement under this subsection  
526 shall be attendance at the school in which the person is enrolled  
527 for each day during a month that the school conducts classes in  
528 which the person is enrolled, with not more than two (2) absences  
529 during the month for reasons other than the reasons listed in  
530 paragraph (e)(iv) of this subsection. Persons who fail to meet  
531 participation requirements in this subsection shall be subject to  
532 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



558 available or cannot be verified, the department shall require the  
559 child to meet the monthly attendance requirement for one (1)  
560 semester or until the information is obtained. The department  
561 shall use the attendance information provided by a school district  
562 to verify attendance for a child. The department shall review  
563 with the parent or caretaker relative a child's claim that he or  
564 she has a good cause for not attending school.

565 A school district shall provide information to the department  
566 about the attendance of a child who is enrolled in a public school  
567 in the district within five (5) working days of the receipt of a  
568 written request for that information from the department. The  
569 school district shall define how many hours of attendance count as  
570 a full day and shall provide that information, upon request, to  
571 the department. In reporting attendance, the school district may  
572 add partial days' absence together to constitute a full day's  
573 absence.

574 If a school district fails to provide to the department the  
575 information about the school attendance of any child within  
576 fifteen (15) working days after a written request, the department  
577 shall notify the Department of Audit within three (3) working days  
578 of the school district's failure to comply with that requirement.  
579 The Department of Audit shall begin audit proceedings within five  
580 (5) working days of notification by the Department of Human  
581 Services to determine the school district's compliance with the  
582 requirements of this subsection (4). If the Department of Audit



finds that the school district is not in compliance with the requirements of this subsection, the school district shall be penalized as follows: The Department of Audit shall notify the State Department of Education of the school district's noncompliance, and the Department of Education shall reduce the calculation of the school district's average daily attendance (ADA) that is used to determine the allocation of Mississippi Adequate Education Program funds by the number of children for which the district has failed to provide to the Department of 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 High School Equivalency Diploma 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;
3. Medical or dental appointments for the child or minor parent's child;
4. Death of a close relative;
5. Observance of a religious holiday;
6. Family emergency;
7. Breakdown in transportation;
8. Suspension; or
9. Any other circumstance beyond the control of the child, as defined in regulations of the department.

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

(i) That the family will be sanctioned in the next possible payment month because the child who is required to attend



633 school has failed to meet the attendance requirement of this  
634 subsection;

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

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

640       The child's parent or caretaker relative (whoever is the  
641 primary recipient of the TANF benefits) may request a fair hearing  
642 on the department's determination that the child has not been  
643 attending school. If the child's parents or caretaker relative  
644 does not request a fair hearing under this subsection, or if,  
645 after a fair hearing has been held, the hearing officer finds that  
646 the child without good cause has failed to meet the monthly  
647 attendance requirement, the department shall discontinue or deny  
648 TANF benefits to the child thirteen (13) years old, or older, in  
649 the next possible payment month. The department shall discontinue  
650 or deny twenty-five percent (25%) of the family grant when a child  
651 six (6) through twelve (12) years of age without good cause has  
652 failed to meet the monthly attendance requirement. Both the child  
653 and family sanction may apply when children in both age groups  
654 fail to meet the attendance requirement without good cause. A  
655 sanction applied under this subsection shall be effective for one  
656 (1) month for each month that the child failed to meet the monthly  
657 attendance requirement. In the case of a dropout, the sanction



658 shall remain in force until the parent or caretaker relative  
659 provides written proof from the school district that the child has  
660 reenrolled and met the monthly attendance requirement for one (1)  
661 calendar month. Any month in which school is in session for at  
662 least ten (10) days during the month may be used to meet the  
663 attendance requirement under this subsection. This includes  
664 attendance at summer school. The sanction shall be removed the  
665 next possible payment month.

666 (5) All parents or caretaker relatives shall have their  
667 dependent children receive vaccinations and booster vaccinations  
668 against those diseases specified by the State Health Officer under  
669 Section 41-23-37 in accordance with the vaccination and booster  
670 vaccination schedule prescribed by the State Health Officer for  
671 children of that age, in order for the parents or caretaker  
672 relatives to be eligible or remain eligible to receive TANF  
673 benefits. Proof of having received such vaccinations and booster  
674 vaccinations shall be given by presenting the certificates of  
675 vaccination issued by any health care provider licensed to  
676 administer vaccinations, and submitted on forms specified by the  
677 State Board of Health. If the parents without good cause do not  
678 have their dependent children receive the vaccinations and booster  
679 vaccinations as required by this subsection and they fail to  
680 comply after thirty (30) days' notice, the department shall  
681 sanction the family's TANF benefits by twenty-five percent (25%)



682 for the next payment month and each subsequent payment month until  
683 the requirements of this subsection are met.

684 (6) (a) If the parent or caretaker relative applying for  
685 TANF assistance is work eligible, as determined by the Department  
686 of Human Services, the person shall be required to engage in an  
687 allowable work activity once the department determines the parent  
688 or caretaker relative is determined work eligible, or once the  
689 parent or caretaker relative has received TANF assistance under  
690 the program for twenty-four (24) months, whether or not  
691 consecutive, whichever is earlier. No TANF benefits shall be  
692 given to any person to whom this section applies who fails without  
693 good cause to comply with the Employability Development Plan  
694 prepared by the department for the person, or who has refused to  
695 accept a referral or offer of employment, training or education in  
696 which he or she is able to engage, subject to the penalties  
697 prescribed in paragraph (e) of this subsection. A person shall be  
698 deemed to have refused to accept a referral or offer of  
699 employment, training or education if he or she:

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

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



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

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

(i) Incapacity;

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

(iii) Is in the third trimester of pregnancy, and there are complications verified by the certificate of a



730 physician, nurse practitioner, physician assistant, or any other  
731 licensed health care professional practicing under a protocol with  
732 a licensed physician;

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

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

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

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

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

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



755 1. Physical acts that resulted in, or  
756 threatened to result in, physical injury to the individual;  
757 2. Sexual abuse;  
758 3. Sexual activity involving a dependent  
759 child;  
760 4. Being forced as the caretaker relative of  
761 a dependent child to engage in nonconsensual sexual acts or  
762 activities;  
763 5. Threats of, or attempts at, physical or  
764 sexual abuse;  
765 6. Mental abuse; or  
766 7. Neglect or deprivation of medical care.  
767 (c) For all families, all adults who are not  
768 specifically exempt shall be required to participate in work  
769 activities for at least the minimum average number of hours per  
770 week specified by federal law or regulation, not fewer than twenty  
771 (20) hours per week (thirty-five (35) hours per week for  
772 two-parent families) of which are attributable to the following  
773 allowable work activities:  
774 (i) Unsubsidized employment;  
775 (ii) Subsidized private employment;  
776 (iii) Subsidized public employment;  
777 (iv) Work experience (including work associated  
778 with the refurbishing of publicly assisted housing), if sufficient  
779 private employment is not available;



780 (v) On-the-job training;  
781 (vi) Job search and job readiness assistance  
782 consistent with federal TANF regulations;  
783 (vii) Community service programs;  
784 (viii) Vocational educational training (not to  
785 exceed twelve (12) months with respect to any individual);  
786 (ix) The provision of child care services to an  
787 individual who is participating in a community service program;  
788 (x) Satisfactory attendance at high school or in a  
789 course of study leading to a high school equivalency certificate,  
790 for heads of household under age twenty (20) who have not  
791 completed high school or received such certificate;  
792 (xi) Education directly related to employment, for  
793 heads of household under age twenty (20) who have not completed  
794 high school or received such equivalency certificate.  
795 (d) The following are allowable work activities which  
796 may be attributable to hours in excess of the minimum specified  
797 in \* \* \* paragraph (c) of this subsection:  
798 (i) Job skills training directly related to  
799 employment;  
800 (ii) Education directly related to employment for  
801 individuals who have not completed high school or received a high  
802 school equivalency certificate;  
803 (iii) Satisfactory attendance at high school or in  
804 a course of study leading to a high school equivalency, for





805 individuals who have not completed high school or received such  
806 equivalency certificate;

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

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

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

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

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

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

828 For a two-parent family, unless prohibited by state or  
829 federal law, Medicaid assistance shall be terminated only for the



830 person whose failure to participate in allowable work activity  
831 caused the family's TANF assistance to be sanctioned under  
832 this \* \* \* paragraph (e), unless an individual is pregnant, but  
833 shall not be terminated for any other person in the family who is  
834 meeting that person's applicable work requirement or who is not  
835 required to work. Minor children shall continue to be eligible  
836 for Medicaid benefits regardless of the disqualification of their  
837 parent or caretaker relative for TANF assistance under this  
838 subsection (6), unless prohibited by state or federal law.

839 (f) Any person enrolled in a two-year or four-year  
840 college program who meets the eligibility requirements to receive  
841 TANF benefits, and who is meeting the applicable work requirements  
842 and all other applicable requirements of the TANF program, shall  
843 continue to be eligible for TANF benefits while enrolled in the  
844 college program for as long as the person meets the requirements  
845 of the TANF program, unless prohibited by federal law.

846 (g) No adult in a work activity required under this  
847 subsection (6) shall be employed or assigned (i) when any other  
848 individual is on layoff from the same or any substantially  
849 equivalent job within six (6) months before the date of the TANF  
850 recipient's employment or assignment; or (ii) if the employer has  
851 terminated the employment of any regular employee or otherwise  
852 caused an involuntary reduction of its workforce in order to fill  
853 the vacancy so created with an adult receiving TANF assistance.

854 The Mississippi Department of Employment Security, established



under Section 71-5-101, shall appoint one or more impartial hearing officers to hear and decide claims by employees of violations of this paragraph (g). The hearing officer shall hear all the evidence with respect to any claim made hereunder and such additional evidence as he may require and shall make a determination and the reason therefor. The claimant shall be promptly notified of the decision of the hearing officer and the reason therefor. Within ten (10) days after the decision of the hearing officer has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action, in the circuit court of the county in which the claimant resides, against the department for the review of such decision, in which action any other party to the proceeding before the hearing officer shall be made a defendant. Any such appeal shall be on the record which shall be certified to the court by the department in the manner provided in Section 71-5-531, and the jurisdiction of the court shall be confined to questions of law which shall render its decision as provided in that section.

(7) The Department of Human Services may provide child care for eligible participants who require such care so that they may accept employment or remain employed. The department may also provide child care for those participating in the TANF program when it is determined that they are satisfactorily involved in education, training or other allowable work activities. The department may contract with Head Start agencies to provide child



care services to TANF recipients. The department may also arrange for child care by use of contract or vouchers, provide vouchers in advance to a caretaker relative, reimburse a child care provider, or use any other arrangement deemed appropriate by the department, and may establish different reimbursement rates for child care services depending on the category of the facility or home. Any center-based or group home child care facility under this subsection shall be licensed by the State Department of Health 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.



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

914           (10) The department shall require applicants for and  
915 recipients of public assistance from the department to sign a  
916 personal responsibility contract that will require the applicant  
917 or recipient to acknowledge his or her responsibilities to the  
918 state.

919           (11) The department shall enter into an agreement with the  
920 State Personnel Board and other state agencies that will allow  
921 those TANF participants who qualify for vacant jobs within state  
922 agencies to be placed in state jobs. State agencies participating  
923 in the TANF work program shall receive any and all benefits  
924 received by employers in the private sector for hiring TANF  
925 recipients. This subsection (11) shall be effective only if the  
926 state obtains any necessary federal waiver or approval and if  
927 federal funds are available therefor.



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

930           (13) The Mississippi Department of Human Services shall  
931 provide TANF applicants information and referral to programs that  
932 provide information about birth control, prenatal health care,  
933 abstinence education, marriage education, family preservation and  
934 fatherhood.

935           (14) No new TANF program requirement or restriction  
936 affecting a person's eligibility for TANF assistance, or allowable  
937 work activity, which is not mandated by federal law or regulation  
938 may be implemented by the Department of Human Services after July  
939 1, 2004, unless such is specifically authorized by an amendment to  
940 this section by the Legislature.

941           **SECTION 4.** Section 43-17-6, Mississippi Code of 1972, which  
942 requires certain adult recipients of TANF benefits to take a drug  
943 test and participate in a substance abuse disorder treatment plan,  
944 is repealed.

945           **SECTION 5.** This act shall take effect and be in force from  
946 and after July 1, 2017.

