

By: Representatives Brown, Boyd, Criswell,  
Eubanks, Hopkins

To: Medicaid

HOUSE BILL NO. 1092  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-13-107, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE QUALIFICATIONS FOR THE EXECUTIVE DIRECTOR OF THE  
3 DIVISION OF MEDICAID; AND FOR RELATED PURPOSES.

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

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

7 43-13-107. (1) The Division of Medicaid is created in the  
8 Office of the Governor and established to administer this article  
9 and perform such other duties as are prescribed by law.

10 (2) (a) The Governor shall appoint a full-time executive  
11 director, with the advice and consent of the Senate, who shall be  
12 either (i) a physician with administrative experience in a medical  
13 care or health program, or (ii) a person holding a graduate degree  
14 in medical care administration, public health, hospital  
15 administration, or the equivalent, or (iii) a person holding a  
16 bachelor's degree \* \* \* with at least \* \* \* three (3) years'  
17 experience in management-level administration of, or policy  
18 development for, Medicaid programs. Provided, however, no one who



19 has been a member of the Mississippi Legislature during the  
20 previous three (3) years may be Executive Director. The executive  
21 director shall be the official secretary and legal custodian of  
22 the records of the division; shall be the agent of the division  
23 for the purpose of receiving all service of process, summons and  
24 notices directed to the division; shall perform such other duties  
25 as the Governor may prescribe from time to time; and shall perform  
26 all other duties that are now or may be imposed upon him or her by  
27 law.

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

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

40 (d) The executive director, with the approval of the  
41 Governor and subject to the rules and regulations of the State  
42 Personnel Board, shall employ such professional, administrative,  
43 stenographic, secretarial, clerical and technical assistance as



44 may be necessary to perform the duties required in administering  
45 this article and fix the compensation for those persons, all in  
46 accordance with a state merit system meeting federal requirements.  
47 When the salary of the executive director is not set by law, that  
48 salary shall be set by the State Personnel Board. No employees of  
49 the Division of Medicaid shall be considered to be staff members  
50 of the immediate Office of the Governor; however, Section  
51 25-9-107(c) (xv) shall apply to the executive director and other  
52 administrative heads of the division.

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

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

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

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

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

67 All members appointed under this paragraph shall either be  
68 health care providers or consumers of health care services. One



69 (1) member appointed by each of the appointing authorities shall  
70 be a board-certified physician.

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

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

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

87 (f) The members of the advisory committee specified in  
88 paragraph (b) shall serve for terms that are concurrent with the  
89 terms of members of the Legislature, and any member appointed  
90 under paragraph (b) may be reappointed to the advisory committee.  
91 The members of the advisory committee specified in paragraph (b)  
92 shall serve without compensation, but shall receive reimbursement  
93 to defray actual expenses incurred in the performance of committee



94 business as authorized by law. Legislators shall receive per diem  
95 and expenses, which may be paid from the contingent expense funds  
96 of their respective houses in the same amounts as provided for  
97 committee meetings when the Legislature is not in session.

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

164 (b) The committee shall meet as often as needed to  
165 fulfill its responsibilities and obligations as set forth in this  
166 section, and committee members shall be furnished written notice



167 of the meetings at least ten (10) days before the date of the  
168 meeting.

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

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





192 circumstances stated by the division without a thirty-day public  
193 notice. If the committee determines to review the status of the  
194 particular drug, it shall make its recommendations to the  
195 division, after which the division shall file those  
196 recommendations for a thirty-day public comment under Section  
197 25-43-7(1).

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

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

212 (g) At least thirty (30) days before the executive  
213 director implements new or amended prior authorization decisions,  
214 written notice of the executive director's decision shall be  
215 provided to all prescribing Medicaid providers, all Medicaid  
216 enrolled pharmacies, and any other party who has requested the



217 notification. However, notice given under Section 25-43-7(1) will  
218 substitute for and meet the requirement for notice under this  
219 subsection.

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

227 **SECTION 2.** This act shall take effect and be in force from  
228 and after July 1, 2017.

