

By: Senator(s) Younger

To: Medicaid; Appropriations

SENATE BILL NO. 2051

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE TRANSITIONING ACTIVE DUTY MILITARY SERVICE MEMBERS TO  
3 USE THEIR STATE OF LEGAL RESIDENCE TO QUALIFY THEIR DEPENDENTS  
4 WITH SPECIAL NEEDS FOR MEDICAID HOME- AND COMMUNITY-BASED SERVICES  
5 (HCBS) IN THE STATE OF MISSISSIPPI; AND FOR RELATED PURPOSES.

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

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

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

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



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

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

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

40 (4) [Deleted]

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



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

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

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



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

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

78 (9) Individuals who are:

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

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

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

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

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



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

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

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



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

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

131 The eligibility of individuals covered under this paragraph  
132 shall be determined by the Division of Medicaid, and those  
133 individuals determined eligible shall receive Medicare  
134 cost-sharing expenses only as more fully defined by the Medicare  
135 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of  
136 1997.

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



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

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

155 (14) [Deleted]

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

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



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

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

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





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

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

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

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



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

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

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

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



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

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

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



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

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

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

292 (28) (a) A dependent, who is a legal resident of the  
293 State of Mississippi, having previously been determined to be



294 eligible for developmental disability services provided by the  
295 Department of Mental Health, including waiver services provided  
296 under the home- and community-based services programs authorized  
297 under Section 1915(c) of the Social Security Act, shall retain  
298 eligibility for those developmental disability services as long as  
299 he or she remains a legal resident of the state, regardless of  
300 having left the state due to the military service member's  
301 military assignment outside the state, and as long as he or she is  
302 otherwise eligible for such services.

303 (b) The Division of Medicaid shall permit a dependent  
304 who resides out of state to be placed on the waiting list for  
305 developmental disability services if the dependent left the state  
306 due to the military service member's military assignment outside  
307 the state, is otherwise eligible for those services, and furnishes  
308 the following:

309 (i) A copy of the military service member's DD-214  
310 or other equivalent discharge paperwork; and

311 (ii) Proof of the military service member's legal  
312 residence in the state, as prescribed by the department.

313 (c) For dependents who received developmental  
314 disability services and who left the state due to the military  
315 service member's military assignment outside the state, upon the  
316 dependent's return to the state and when a request for services is  
317 made, the department shall:



318 (i) Determine the dependent's eligibility for  
319 services, which may include a request for waiver services provided  
320 under the home- and community-based services programs authorized  
321 under Section 1915(c) of the Social Security Act;

322 (ii) Provide to the dependent notification of the  
323 determination of eligibility for services, which includes  
324 notification of a denial of services, if applicable;

325 (iii) Provide the dependent an opportunity to  
326 contest the department's determination through the appeals  
327 processes established by the department; and

328 (iv) Resume services if the individual remains  
329 eligible.

330 (d) The division shall allow an individual who meets  
331 Medicaid eligibility requirements to receive home- and  
332 community-based services in this state if the individual's parent  
333 or legal guardian is an active-duty military service member and,  
334 at the time of the service member's transfer to Mississippi, the  
335 individual was receiving home- and community-based services in  
336 another state.

337 (29) The division shall redetermine eligibility for all  
338 categories of recipients described in each paragraph of this  
339 section not less frequently than required by federal law.

340 **SECTION 2.** This act shall take effect and be in force from  
341 and after July 1, 2019.

