

By: Senator(s) Wiggins

To: Medicaid; Appropriations

SENATE BILL NO. 2267

1 AN ACT TO AMEND SECTION 43-13-107, MISSISSIPPI CODE OF 1972,  
 2 TO TRANSFER THE RESPONSIBILITIES OF THE MISSISSIPPI COMMISSION ON  
 3 EXPANDING MEDICAID MANAGED CARE TO THE MEDICAL CARE ADVISORY  
 4 COMMITTEE WITHIN THE DIVISION OF MEDICAID IN ORDER TO CONTINUE  
 5 MONITORING AND STUDYING THE MEDICAID MANAGED CARE PAYMENT PROGRAM  
 6 AND TO MAKE AN ANNUAL REPORT TO THE LEGISLATURE; TO AUTHORIZE THE  
 7 MEDICAL CARE ADVISORY COMMITTEE TO CONSULT WITH OTHER PROVIDER  
 8 GROUPS; AND FOR RELATED PURPOSES.

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

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

12 43-13-107. (1) The Division of Medicaid is created in the  
 13 Office of the Governor and established to administer this article  
 14 and perform such other duties as are prescribed by law.

15 (2) (a) The Governor shall appoint a full-time executive  
 16 director, with the advice and consent of the Senate, who shall be  
 17 either (i) a physician with administrative experience in a medical  
 18 care or health program, or (ii) a person holding a graduate degree  
 19 in medical care administration, public health, hospital  
 20 administration, or the equivalent, or (iii) a person holding a  
 21 bachelor's degree with at least three (3) years' experience in



22 management-level administration of, or policy development for,  
23 Medicaid programs. Provided, however, no one who has been a  
24 member of the Mississippi Legislature during the previous three  
25 (3) years may be executive director. The executive director shall  
26 be the official secretary and legal custodian of the records of  
27 the division; shall be the agent of the division for the purpose  
28 of receiving all service of process, summons and notices directed  
29 to the division; shall perform such other duties as the Governor  
30 may prescribe from time to time; and shall perform all other  
31 duties that are now or may be imposed upon him or her by law.

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

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

44 (d) The executive director, with the approval of the  
45 Governor and subject to the rules and regulations of the State  
46 Personnel Board, shall employ such professional, administrative,



47 stenographic, secretarial, clerical and technical assistance as  
48 may be necessary to perform the duties required in administering  
49 this article and fix the compensation for those persons, all in  
50 accordance with a state merit system meeting federal requirements.  
51 When the salary of the executive director is not set by law, that  
52 salary shall be set by the State Personnel Board. No employees of  
53 the Division of Medicaid shall be considered to be staff members  
54 of the immediate Office of the Governor; however, Section  
55 25-9-107(c) (xv) shall apply to the executive director and other  
56 administrative heads of the division.

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

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

63 (i) The Governor shall appoint five (5) members,  
64 one (1) from each congressional district and one (1) from the  
65 state at large;

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

68 (iii) The Speaker of the House of Representatives  
69 shall appoint three (3) members, one (1) from each Supreme Court  
70 district.



71 All members appointed under this paragraph shall either be  
72 health care providers or consumers of health care services. One  
73 (1) member appointed by each of the appointing authorities shall  
74 be a board-certified physician.

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

84 (d) In addition to the committee members required by  
85 paragraph (b), the advisory committee shall consist of such other  
86 members as are necessary to meet the requirements of the federal  
87 regulation applicable to the advisory committee, who shall be  
88 appointed as provided in the federal regulation.

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

92 (f) The members of the advisory committee specified in  
93 paragraph (b) shall serve for terms that are concurrent with the  
94 terms of members of the Legislature, and any member appointed  
95 under paragraph (b) may be reappointed to the advisory committee.



96 The members of the advisory committee specified in paragraph (b)  
97 shall serve without compensation, but shall receive reimbursement  
98 to defray actual expenses incurred in the performance of committee  
99 business as authorized by law. Legislators shall receive per diem  
100 and expenses, which may be paid from the contingent expense funds  
101 of their respective houses in the same amounts as provided for  
102 committee meetings when the Legislature is not in session.

103 (g) The advisory committee shall meet not less than  
104 quarterly, and advisory committee members shall be furnished  
105 written notice of the meetings at least ten (10) days before the  
106 date of the meeting.

107 (h) The executive director shall submit to the advisory  
108 committee all amendments, modifications and changes to the state  
109 plan for the operation of the Medicaid program, for review by the  
110 advisory committee before the amendments, modifications or changes  
111 may be implemented by the division.

112 (i) The advisory committee, among its duties and  
113 responsibilities, shall:

114 (i) Advise the division with respect to  
115 amendments, modifications and changes to the state plan for the  
116 operation of the Medicaid program;

117 (ii) Advise the division with respect to issues  
118 concerning receipt and disbursement of funds and eligibility for  
119 Medicaid;



120 (iii) Advise the division with respect to  
121 determining the quantity, quality and extent of medical care  
122 provided under this article;

123 (iv) Communicate the views of the medical care  
124 professions to the division and communicate the views of the  
125 division to the medical care professions;

126 (v) Gather information on reasons that medical  
127 care providers do not participate in the Medicaid program and  
128 changes that could be made in the program to encourage more  
129 providers to participate in the Medicaid program, and advise the  
130 division with respect to encouraging physicians and other medical  
131 care providers to participate in the Medicaid program;

132 (vi) Receive the report of the Commission on  
133 Expanding Medicaid Managed Care authorized in Senate Bill No. 2836  
134 (2018 Regular Session) and continue the study and oversight of the  
135 issues and findings contained therein, and to develop  
136 recommendations in accordance with this act;

137 (vii) Consult with, accept recommendations from  
138 and otherwise work with other providers, including community  
139 health centers, mental health providers and home care service  
140 providers;

141 (viii) Consult with and develop policy as needed  
142 with the chief medical officers of all managed care organizations  
143 operating with DOM; and



144 ( \* \* \*ix) Provide a written report on or before  
145 November 30 of each year to the Governor, Lieutenant Governor and  
146 Speaker of the House of Representatives, including a report on the  
147 Mississippi Medicaid managed care program issues specified above.

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

150 (i) Review and initiate retrospective drug use,  
151 review including ongoing periodic examination of claims data and  
152 other records in order to identify patterns of fraud, abuse, gross  
153 overuse, or inappropriate or medically unnecessary care, among  
154 physicians, pharmacists and individuals receiving Medicaid  
155 benefits or associated with specific drugs or groups of drugs.

156 (ii) Review and initiate ongoing interventions for  
157 physicians and pharmacists, targeted toward therapy problems or  
158 individuals identified in the course of retrospective drug use  
159 reviews.

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

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

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



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

179           (5) (a) There is established a Pharmacy and Therapeutics  
180 Committee, which shall be appointed by the Governor, or his  
181 designee.

182           (b) The committee shall meet as often as needed to  
183 fulfill its responsibilities and obligations as set forth in this  
184 section, and committee members shall be furnished written notice  
185 of the meetings at least ten (10) days before the date of the  
186 meeting.

187           (c) The committee meetings shall be open to the public,  
188 members of the press, legislators and consumers. Additionally,  
189 all documents provided to committee members shall be available to  
190 members of the Legislature in the same manner, and shall be made  
191 available to others for a reasonable fee for copying. However,  
192 patient confidentiality and provider confidentiality shall be





193 protected by blinding patient names and provider names with  
194 numerical or other anonymous identifiers. The committee meetings  
195 shall be subject to the Open Meetings Act (Sections 25-41-1  
196 through 25-41-17). Committee meetings conducted in violation of  
197 this section shall be deemed unlawful.

198 (d) After a thirty-day public notice, the executive  
199 director, or his or her designee, shall present the division's  
200 recommendation regarding prior approval for a therapeutic class of  
201 drugs to the committee. However, in circumstances where the  
202 division deems it necessary for the health and safety of Medicaid  
203 beneficiaries, the division may present to the committee its  
204 recommendations regarding a particular drug without a thirty-day  
205 public notice. In making that presentation, the division shall  
206 state to the committee the circumstances that precipitate the need  
207 for the committee to review the status of a particular drug  
208 without a thirty-day public notice. The committee may determine  
209 whether or not to review the particular drug under the  
210 circumstances stated by the division without a thirty-day public  
211 notice. If the committee determines to review the status of the  
212 particular drug, it shall make its recommendations to the  
213 division, after which the division shall file those  
214 recommendations for a thirty-day public comment under Section  
215 25-43-7(1).

216 (e) Upon reviewing the information and recommendations,  
217 the committee shall forward a written recommendation approved by a



218 majority of the committee to the executive director, or his or her  
219 designee. The decisions of the committee regarding any  
220 limitations to be imposed on any drug or its use for a specified  
221 indication shall be based on sound clinical evidence found in  
222 labeling, drug compendia, and peer-reviewed clinical literature  
223 pertaining to use of the drug in the relevant population.

224 (f) Upon reviewing and considering all recommendations  
225 including recommendations of the committee, comments, and data,  
226 the executive director shall make a final determination whether to  
227 require prior approval of a therapeutic class of drugs, or modify  
228 existing prior approval requirements for a therapeutic class of  
229 drugs.

230 (g) At least thirty (30) days before the executive  
231 director implements new or amended prior authorization decisions,  
232 written notice of the executive director's decision shall be  
233 provided to all prescribing Medicaid providers, all Medicaid  
234 enrolled pharmacies, and any other party who has requested the  
235 notification. However, notice given under Section 25-43-7(1) will  
236 substitute for and meet the requirement for notice under this  
237 subsection.

238 (h) Members of the committee shall dispose of matters  
239 before the committee in an unbiased and professional manner. If a  
240 matter being considered by the committee presents a real or  
241 apparent conflict of interest for any member of the committee,  
242 that member shall disclose the conflict in writing to the



243 committee chair and recuse himself or herself from any discussions  
244 and/or actions on the matter.

245           **SECTION 2.** This act shall take effect and be in force from  
246 and after its passage.

