

By: Representative Clark

To: Medicaid; Rules;  
Appropriations

HOUSE BILL NO. 170

1 AN ACT TO DIRECT THE GOVERNOR AND THE DIVISION OF MEDICAID TO  
 2 ENTER INTO NEGOTIATIONS WITH THE FEDERAL GOVERNMENT TO OBTAIN A  
 3 WAIVER OF APPLICABLE PROVISIONS OF THE MEDICAID LAWS AND  
 4 REGULATIONS TO CREATE A PLAN TO ALLOW THE EXPANSION OF MEDICAID  
 5 COVERAGE IN MISSISSIPPI; TO SPECIFY THE PROVISIONS THAT THE  
 6 GOVERNOR AND THE DIVISION SHALL SEEK TO HAVE INCLUDED IN THE  
 7 WAIVER PLAN; TO PROVIDE THAT IF A WAIVER IS OBTAINED TO ALLOW THE  
 8 EXPANSION OF MEDICAID COVERAGE, THE DIVISION SHALL AMEND THE STATE  
 9 PLAN TO INCLUDE THE PROVISIONS AUTHORIZED IN THE WAIVER AND SHALL  
 10 BEGIN IMPLEMENTING THE PLAN AUTHORIZED BY THE WAIVER; TO AMEND  
 11 SECTION 43-13-115, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
 12 PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** (1) The Governor and the Division of Medicaid  
 15 shall enter into negotiations with the Centers for Medicare and  
 16 Medicaid Services (CMS) to obtain a waiver of applicable  
 17 provisions of the Medicaid laws and regulations under Section 1115  
 18 of the federal Social Security Act to create a plan to allow the  
 19 expansion of Medicaid coverage in Mississippi, which contains the  
 20 following provisions:

21 (a) **Overview.** (i) Private market-based health  
 22 coverage will be provided to adults with incomes of not more than  
 23 one hundred thirty-eight percent (138%) of Federal Poverty Level



24 (FPL). Most of these adults will be in working families who are  
25 not offered affordable coverage options by their employer and earn  
26 too much to qualify for Medicaid.

27 (ii) Newly eligible adults will have at least two  
28 (2) Qualified Health Plans (QHP) offered by insurance carriers  
29 contracting with the state.

30 (iii) Cost-sharing will be required for enrollees  
31 with incomes of not less than fifty percent (50%) and not more  
32 than one hundred thirty-eight percent (138%) of the FPL (not  
33 greater than those allowable under current law), which can be  
34 reduced by participating in specified healthy behavior  
35 activities.

36 (iv) The Mississippi Healthy Living Account will  
37 be created, and enrollees with incomes of not less than fifty  
38 percent (50%) and not more than one hundred thirty-eight percent  
39 (138%) of the FPL will be required to make income-based  
40 contributions to health savings accounts. Enrollees cannot lose  
41 or be denied Medicaid eligibility, be denied health plan  
42 enrollment, or be denied access to services, and providers may not  
43 deny services for failure to pay copays or premiums.

44 (b) **Duration.** The plan will automatically end if the  
45 federal contribution rate for this expanded Medicaid coverage  
46 falls below ninety percent (90%).

47 (c) **Coverage Groups.** The groups that will be covered  
48 are:



49 (i) Newly eligible adults without dependent  
50 children, who are nineteen (19) through sixty-four (64) years of  
51 age with incomes of not more than one hundred thirty-eight percent  
52 (138%) of the FPL;

53 (ii) Newly eligible parents who are nineteen (19)  
54 through sixty-four (64) years of age with incomes more than  
55 twenty-two percent (22%) and not more than one hundred  
56 thirty-eight percent (138%) of the FPL; and

57 (iii) Parents with incomes of not more than  
58 twenty-two percent (22%) of the FPL will be transitioned from  
59 traditional Medicaid to the new plan.

60 (d) **Premiums.** The state will use Medicaid dollars to  
61 pay monthly premiums directly to QHPs. Enrollees will not be  
62 responsible for the premium but will be responsible to make  
63 cost-sharing contributions.

64 (e) **Qualified Health Plan Choice/Benefits.** (i)  
65 Enrollees will choose between at least two (2) silver level  
66 marketplace QHPs. If enrollees do not choose a plan, they will be  
67 automatically assigned to one (1) plan. The state must ensure  
68 that beneficiaries authorize auto-assignment to a plan.

69 (ii) Enrollees will have access to at least one  
70 (1) QHP that contracts with at least one (1) Federally Qualified  
71 Health Center (FQHC).

72 (f) **Health Savings Account/Cost-Sharing.** (i) The  
73 Mississippi Healthy Living Account will be established, which is a



74 health savings account for individuals with incomes of not less  
75 than fifty percent (50%) and not more than one hundred  
76 thirty-eight percent (138%) of the FPL. Contributions to the  
77 healthy living account will be used to pay individuals' copays and  
78 to meet other cost-sharing requirements. Enrollees will make  
79 quarterly contributions to their account.

80 (ii) Cost-sharing obligations will be based on the  
81 enrollee's prior six (6) months of copays, billed at the end of  
82 each quarter. No cost-sharing will be required for the first six  
83 (6) months of enrollment. Cost-sharing will be paid into health  
84 accounts and can be reduced through compliance with healthy  
85 behaviors.

86 (iii) Cost-sharing for enrollees with incomes of  
87 not less than fifty percent (50%) and less than one hundred  
88 percent (100%) of the FPL will be capped at two percent (2%) of  
89 their income, and cost-sharing for enrollees with incomes of not  
90 less than one hundred percent (100%) and not more than one hundred  
91 thirty-eight percent (138%) of the FPL will be capped at five  
92 percent (5%) of their income.

93 (iv) Cost-sharing will not be administered at the  
94 point of service. Enrollees will make their required contribution  
95 to their health savings account. The account administrator will  
96 make required payments to the enrollee's provider.



97 (v) Healthy living accounts and healthy behavior  
98 protocols will be developed by the state and submitted to CMS for  
99 approval.

100 (g) **Enrollment Process.** The Medicaid enrollment  
101 process will be modernized by implementing a data-sharing  
102 initiative commonly called "Fast-Track," which will transition  
103 thousands of currently eligible parents off of traditional  
104 Medicaid and to the private insurance market.

105 (2) If the Governor and the Division of Medicaid are  
106 successful in obtaining a Section 1115 waiver to allow the  
107 expansion of Medicaid coverage in Mississippi, the division shall  
108 amend the state plan to include the provisions authorized in the  
109 waiver, and shall begin implementing the plan authorized by the  
110 waiver after receiving CMS approval of the state plan amendment.

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

113 43-13-115. Recipients of Medicaid shall be the following  
114 persons only:

115 (1) Those who are qualified for public assistance  
116 grants under provisions of Title IV-A and E of the federal Social  
117 Security Act, as amended, including those statutorily deemed to be  
118 IV-A and low-income families and children under Section 1931 of  
119 the federal Social Security Act. For the purposes of this  
120 paragraph (1) and paragraphs (8), (17) and (18) of this section,  
121 any reference to Title IV-A or to Part A of Title IV of the



122 federal Social Security Act, as amended, or the state plan under  
123 Title IV-A or Part A of Title IV, shall be considered as a  
124 reference to Title IV-A of the federal Social Security Act, as  
125 amended, and the state plan under Title IV-A, including the income  
126 and resource standards and methodologies under Title IV-A and the  
127 state plan, as they existed on July 16, 1996. The Department of  
128 Human Services shall determine Medicaid eligibility for children  
129 receiving public assistance grants under Title IV-E. The division  
130 shall determine eligibility for low-income families under Section  
131 1931 of the federal Social Security Act and shall redetermine  
132 eligibility for those continuing under Title IV-A grants.

133 (2) Those qualified for Supplemental Security Income  
134 (SSI) benefits under Title XVI of the federal Social Security Act,  
135 as amended, and those who are deemed SSI eligible as contained in  
136 federal statute. The eligibility of individuals covered in this  
137 paragraph shall be determined by the Social Security  
138 Administration and certified to the Division of Medicaid.

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

144 (4) [Deleted]

145 (5) A child born on or after October 1, 1984, to a  
146 woman eligible for and receiving Medicaid under the state plan on



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

155 (6) Children certified by the State Department of Human  
156 Services to the Division of Medicaid of whom the state and county  
157 departments of human services have custody and financial  
158 responsibility, and children who are in adoptions subsidized in  
159 full or part by the Department of Human Services, including  
160 special needs children in non-Title IV-E adoption assistance, who  
161 are approvable under Title XIX of the Medicaid program. The  
162 eligibility of the children covered under this paragraph shall be  
163 determined by the State Department of Human Services.

164 (7) Persons certified by the Division of Medicaid who  
165 are patients in a medical facility (nursing home, hospital,  
166 tuberculosis sanatorium or institution for treatment of mental  
167 diseases), and who, except for the fact that they are patients in  
168 that medical facility, would qualify for grants under Title IV,  
169 Supplementary Security Income (SSI) benefits under Title XVI or  
170 state supplements, and those aged, blind and disabled persons who  
171 would not be eligible for Supplemental Security Income (SSI)



172 benefits under Title XVI or state supplements if they were not  
173 institutionalized in a medical facility but whose income is below  
174 the maximum standard set by the Division of Medicaid, which  
175 standard shall not exceed that prescribed by federal regulation.

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

182 (9) Individuals who are:

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

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

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

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





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

206           (11) Until the end of the day on December 31, 2005,  
207 individuals who are sixty-five (65) years of age or older or are  
208 disabled as determined under Section 1614(a)(3) of the federal  
209 Social Security Act, as amended, and whose income does not exceed  
210 one hundred thirty-five percent (135%) of the nonfarm official  
211 poverty level as defined by the Office of Management and Budget  
212 and revised annually, and whose resources do not exceed those  
213 established by the Division of Medicaid. The eligibility of  
214 individuals covered under this paragraph shall be determined by  
215 the Division of Medicaid. After December 31, 2005, only those  
216 individuals covered under the 1115(c) Healthier Mississippi waiver  
217 will be covered under this category.

218           Any individual who applied for Medicaid during the period  
219 from July 1, 2004, through March 31, 2005, who otherwise would  
220 have been eligible for coverage under this paragraph (11) if it  
221 had been in effect at the time the individual submitted his or her



222 application and is still eligible for coverage under this  
223 paragraph (11) on March 31, 2005, shall be eligible for Medicaid  
224 coverage under this paragraph (11) from March 31, 2005, through  
225 December 31, 2005. The division shall give priority in processing  
226 the applications for those individuals to determine their  
227 eligibility under this paragraph (11).

228 (12) Individuals who are qualified Medicare  
229 beneficiaries (QMB) entitled to Part A Medicare as defined under  
230 Section 301, Public Law 100-360, known as the Medicare  
231 Catastrophic Coverage Act of 1988, and whose income does not  
232 exceed one hundred percent (100%) of the nonfarm official poverty  
233 level as defined by the Office of Management and Budget and  
234 revised annually.

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

241 (13) (a) Individuals who are entitled to Medicare Part  
242 A as defined in Section 4501 of the Omnibus Budget Reconciliation  
243 Act of 1990, and whose income does not exceed one hundred twenty  
244 percent (120%) of the nonfarm official poverty level as defined by  
245 the Office of Management and Budget and revised annually.



246 Eligibility for Medicaid benefits is limited to full payment of  
247 Medicare Part B premiums.

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

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

259 (14) [Deleted]

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

269 (16) In accordance with the terms and conditions of  
270 approved Title XIX waiver from the United States Department of



271 Health and Human Services, persons provided home- and  
272 community-based services who are physically disabled and certified  
273 by the Division of Medicaid as eligible due to applying the income  
274 and deeming requirements as if they were institutionalized.

275 (17) In accordance with the terms of the federal  
276 Personal Responsibility and Work Opportunity Reconciliation Act of  
277 1996 (Public Law 104-193), persons who become ineligible for  
278 assistance under Title IV-A of the federal Social Security Act, as  
279 amended, because of increased income from or hours of employment  
280 of the caretaker relative or because of the expiration of the  
281 applicable earned income disregards, who were eligible for  
282 Medicaid for at least three (3) of the six (6) months preceding  
283 the month in which the ineligibility begins, shall be eligible for  
284 Medicaid for up to twelve (12) months. The eligibility of the  
285 individuals covered under this paragraph shall be determined by  
286 the division.

287 (18) Persons who become ineligible for assistance under  
288 Title IV-A of the federal Social Security Act, as amended, as a  
289 result, in whole or in part, of the collection or increased  
290 collection of child or spousal support under Title IV-D of the  
291 federal Social Security Act, as amended, who were eligible for  
292 Medicaid for at least three (3) of the six (6) months immediately  
293 preceding the month in which the ineligibility begins, shall be  
294 eligible for Medicaid for an additional four (4) months beginning  
295 with the month in which the ineligibility begins. The eligibility



296 of the individuals covered under this paragraph shall be  
297 determined by the division.

298 (19) Disabled workers, whose incomes are above the  
299 Medicaid eligibility limits, but below two hundred fifty percent  
300 (250%) of the federal poverty level, shall be allowed to purchase  
301 Medicaid coverage on a sliding fee scale developed by the Division  
302 of Medicaid.

303 (20) Medicaid eligible children under age eighteen (18)  
304 shall remain eligible for Medicaid benefits until the end of a  
305 period of twelve (12) months following an eligibility  
306 determination, or until such time that the individual exceeds age  
307 eighteen (18).

308 (21) Women of childbearing age whose family income does  
309 not exceed one hundred eighty-five percent (185%) of the federal  
310 poverty level. The eligibility of individuals covered under this  
311 paragraph (21) shall be determined by the Division of Medicaid,  
312 and those individuals determined eligible shall only receive  
313 family planning services covered under Section 43-13-117(13) and  
314 not any other services covered under Medicaid. However, any  
315 individual eligible under this paragraph (21) who is also eligible  
316 under any other provision of this section shall receive the  
317 benefits to which he or she is entitled under that other  
318 provision, in addition to family planning services covered under  
319 Section 43-13-117(13).



320           The Division of Medicaid shall apply to the United States  
321 Secretary of Health and Human Services for a federal waiver of the  
322 applicable provisions of Title XIX of the federal Social Security  
323 Act, as amended, and any other applicable provisions of federal  
324 law as necessary to allow for the implementation of this paragraph  
325 (21). The provisions of this paragraph (21) shall be implemented  
326 from and after the date that the Division of Medicaid receives the  
327 federal waiver.

328           (22) Persons who are workers with a potentially severe  
329 disability, as determined by the division, shall be allowed to  
330 purchase Medicaid coverage. The term "worker with a potentially  
331 severe disability" means a person who is at least sixteen (16)  
332 years of age but under sixty-five (65) years of age, who has a  
333 physical or mental impairment that is reasonably expected to cause  
334 the person to become blind or disabled as defined under Section  
335 1614(a) of the federal Social Security Act, as amended, if the  
336 person does not receive items and services provided under  
337 Medicaid.

338           The eligibility of persons under this paragraph (22) shall be  
339 conducted as a demonstration project that is consistent with  
340 Section 204 of the Ticket to Work and Work Incentives Improvement  
341 Act of 1999, Public Law 106-170, for a certain number of persons  
342 as specified by the division. The eligibility of individuals  
343 covered under this paragraph (22) shall be determined by the  
344 Division of Medicaid.



345           (23) Children certified by the Mississippi Department  
346 of Human Services for whom the state and county departments of  
347 human services have custody and financial responsibility who are  
348 in foster care on their eighteenth birthday as reported by the  
349 Mississippi Department of Human Services shall be certified  
350 Medicaid eligible by the Division of Medicaid until their  
351 twenty-first birthday.

352           (24) Individuals who have not attained age sixty-five  
353 (65), are not otherwise covered by creditable coverage as defined  
354 in the Public Health Services Act, and have been screened for  
355 breast and cervical cancer under the Centers for Disease Control  
356 and Prevention Breast and Cervical Cancer Early Detection Program  
357 established under Title XV of the Public Health Service Act in  
358 accordance with the requirements of that act and who need  
359 treatment for breast or cervical cancer. Eligibility of  
360 individuals under this paragraph (24) shall be determined by the  
361 Division of Medicaid.

362           (25) The division shall apply to the Centers for  
363 Medicare and Medicaid Services (CMS) for any necessary waivers to  
364 provide services to individuals who are sixty-five (65) years of  
365 age or older or are disabled as determined under Section  
366 1614(a)(3) of the federal Social Security Act, as amended, and  
367 whose income does not exceed one hundred thirty-five percent  
368 (135%) of the nonfarm official poverty level as defined by the  
369 Office of Management and Budget and revised annually, and whose



370 resources do not exceed those established by the Division of  
371 Medicaid, and who are not otherwise covered by Medicare. Nothing  
372 contained in this paragraph (25) shall entitle an individual to  
373 benefits. The eligibility of individuals covered under this  
374 paragraph shall be determined by the Division of Medicaid.

375 (26) The division shall apply to the Centers for  
376 Medicare and Medicaid Services (CMS) for any necessary waivers to  
377 provide services to individuals who are sixty-five (65) years of  
378 age or older or are disabled as determined under Section  
379 1614(a)(3) of the federal Social Security Act, as amended, who are  
380 end stage renal disease patients on dialysis, cancer patients on  
381 chemotherapy or organ transplant recipients on antirejection  
382 drugs, whose income does not exceed one hundred thirty-five  
383 percent (135%) of the nonfarm official poverty level as defined by  
384 the Office of Management and Budget and revised annually, and  
385 whose resources do not exceed those established by the division.  
386 Nothing contained in this paragraph (26) shall entitle an  
387 individual to benefits. The eligibility of individuals covered  
388 under this paragraph shall be determined by the Division of  
389 Medicaid.

390 (27) Individuals who are entitled to Medicare Part D  
391 and whose income does not exceed one hundred fifty percent (150%)  
392 of the nonfarm official poverty level as defined by the Office of  
393 Management and Budget and revised annually. Eligibility for





394 payment of the Medicare Part D subsidy under this paragraph shall  
395 be determined by the division.

396 (28) Individuals who are eligible under the Section  
397 1115 waiver obtained under Section 1 of this act.

398 The division shall redetermine eligibility for all categories  
399 of recipients described in each paragraph of this section not less  
400 frequently than required by federal law.

401 **SECTION 3.** This act shall take effect and be in force from  
402 and after July 1, 2020.

