

By: Senator(s) Blackwell

To: Medicaid

SENATE BILL NO. 2486

1 AN ACT TO AMEND SECTION 43-13-121, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE DIVISION OF MEDICAID TO EXTEND CERTAIN MANAGEMENT  
3 INFORMATION SYSTEM AND SUPPORT CONTRACTS FOR A PERIOD NOT  
4 EXCEEDING 2 YEARS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-13-121, Mississippi Code of 1972, is  
7 amended as follows:

8 43-13-121. (1) The division shall administer the Medicaid  
9 program under the provisions of this article, and may do the  
10 following:

11 (a) Adopt and promulgate reasonable rules, regulations  
12 and standards, with approval of the Governor, and in accordance  
13 with the Administrative Procedures Law, Section 25-43-1.101 et  
14 seq.:

15 (i) Establishing methods and procedures as may be  
16 necessary for the proper and efficient administration of this  
17 article;



18                   (ii) Providing Medicaid to all qualified  
19 recipients under the provisions of this article as the division  
20 may determine and within the limits of appropriated funds;

21                   (iii) Establishing reasonable fees, charges and  
22 rates for medical services and drugs; in doing so, the division  
23 shall fix all of those fees, charges and rates at the minimum  
24 levels absolutely necessary to provide the medical assistance  
25 authorized by this article, and shall not change any of those  
26 fees, charges or rates except as may be authorized in Section  
27 43-13-117;

28                   (iv) Providing for fair and impartial hearings;

29                   (v) Providing safeguards for preserving the  
30 confidentiality of records; and

31                   (vi) For detecting and processing fraudulent  
32 practices and abuses of the program;

33                   (b) Receive and expend state, federal and other funds  
34 in accordance with court judgments or settlements and agreements  
35 between the State of Mississippi and the federal government, the  
36 rules and regulations promulgated by the division, with the  
37 approval of the Governor, and within the limitations and  
38 restrictions of this article and within the limits of funds  
39 available for that purpose;

40                   (c) Subject to the limits imposed by this article, to  
41 submit a Medicaid plan to the United States Department of Health  
42 and Human Services for approval under the provisions of the



43 federal Social Security Act, to act for the state in making  
44 negotiations relative to the submission and approval of that plan,  
45 to make such arrangements, not inconsistent with the law, as may  
46 be required by or under federal law to obtain and retain that  
47 approval and to secure for the state the benefits of the  
48 provisions of that law.

49 No agreements, specifically including the general plan for  
50 the operation of the Medicaid program in this state, shall be made  
51 by and between the division and the United States Department of  
52 Health and Human Services unless the Attorney General of the State  
53 of Mississippi has reviewed the agreements, specifically including  
54 the operational plan, and has certified in writing to the Governor  
55 and to the executive director of the division that the agreements,  
56 including the plan of operation, have been drawn strictly in  
57 accordance with the terms and requirements of this article;

58 (d) In accordance with the purposes and intent of this  
59 article and in compliance with its provisions, provide for aged  
60 persons otherwise eligible for the benefits provided under Title  
61 XVIII of the federal Social Security Act by expenditure of funds  
62 available for those purposes;

63 (e) To make reports to the United States Department of  
64 Health and Human Services as from time to time may be required by  
65 that federal department and to the Mississippi Legislature as  
66 provided in this section;



67 (f) Define and determine the scope, duration and amount  
68 of Medicaid that may be provided in accordance with this article  
69 and establish priorities therefor in conformity with this article;

70 (g) Cooperate and contract with other state agencies  
71 for the purpose of coordinating Medicaid provided under this  
72 article and eliminating duplication and inefficiency in the  
73 Medicaid program;

74 (h) Adopt and use an official seal of the division;

75 (i) Sue in its own name on behalf of the State of  
76 Mississippi and employ legal counsel on a contingency basis with  
77 the approval of the Attorney General;

78 (j) To recover any and all payments incorrectly made by  
79 the division to a recipient or provider from the recipient or  
80 provider receiving the payments. The division shall be authorized  
81 to collect any overpayments to providers sixty (60) days after the  
82 conclusion of any administrative appeal unless the matter is  
83 appealed to a court of proper jurisdiction and bond is posted.  
84 Any appeal filed after July 1, 2015, shall be to the Chancery  
85 Court of the First Judicial District of Hinds County, Mississippi,  
86 within sixty (60) days after the date that the division has  
87 notified the provider by certified mail sent to the proper address  
88 of the provider on file with the division and the provider has  
89 signed for the certified mail notice, or sixty (60) days after the  
90 date of the final decision if the provider does not sign for the  
91 certified mail notice. To recover those payments, the division



92 may use the following methods, in addition to any other methods  
93 available to the division:

94 (i) The division shall report to the Department of  
95 Revenue the name of any current or former Medicaid recipient who  
96 has received medical services rendered during a period of  
97 established Medicaid ineligibility and who has not reimbursed the  
98 division for the related medical service payment(s). The  
99 Department of Revenue shall withhold from the state tax refund of  
100 the individual, and pay to the division, the amount of the  
101 payment(s) for medical services rendered to the ineligible  
102 individual that have not been reimbursed to the division for the  
103 related medical service payment(s).

104 (ii) The division shall report to the Department  
105 of Revenue the name of any Medicaid provider to whom payments were  
106 incorrectly made that the division has not been able to recover by  
107 other methods available to the division. The Department of  
108 Revenue shall withhold from the state tax refund of the provider,  
109 and pay to the division, the amount of the payments that were  
110 incorrectly made to the provider that have not been recovered by  
111 other available methods;

112 (k) To recover any and all payments by the division  
113 fraudulently obtained by a recipient or provider. Additionally,  
114 if recovery of any payments fraudulently obtained by a recipient  
115 or provider is made in any court, then, upon motion of the



116 Governor, the judge of the court may award twice the payments  
117 recovered as damages;

118 (1) Have full, complete and plenary power and authority  
119 to conduct such investigations as it may deem necessary and  
120 requisite of alleged or suspected violations or abuses of the  
121 provisions of this article or of the regulations adopted under  
122 this article, including, but not limited to, fraudulent or  
123 unlawful act or deed by applicants for Medicaid or other benefits,  
124 or payments made to any person, firm or corporation under the  
125 terms, conditions and authority of this article, to suspend or  
126 disqualify any provider of services, applicant or recipient for  
127 gross abuse, fraudulent or unlawful acts for such periods,  
128 including permanently, and under such conditions as the division  
129 deems proper and just, including the imposition of a legal rate of  
130 interest on the amount improperly or incorrectly paid. Recipients  
131 who are found to have misused or abused Medicaid benefits may be  
132 locked into one (1) physician and/or one (1) pharmacy of the  
133 recipient's choice for a reasonable amount of time in order to  
134 educate and promote appropriate use of medical services, in  
135 accordance with federal regulations. If an administrative hearing  
136 becomes necessary, the division may, if the provider does not  
137 succeed in his or her defense, tax the costs of the administrative  
138 hearing, including the costs of the court reporter or stenographer  
139 and transcript, to the provider. The convictions of a recipient  
140 or a provider in a state or federal court for abuse, fraudulent or



141 unlawful acts under this chapter shall constitute an automatic  
142 disqualification of the recipient or automatic disqualification of  
143 the provider from participation under the Medicaid program.

144 A conviction, for the purposes of this chapter, shall include  
145 a judgment entered on a plea of nolo contendere or a  
146 nonadjudicated guilty plea and shall have the same force as a  
147 judgment entered pursuant to a guilty plea or a conviction  
148 following trial. A certified copy of the judgment of the court of  
149 competent jurisdiction of the conviction shall constitute prima  
150 facie evidence of the conviction for disqualification purposes;

151 (m) Establish and provide such methods of  
152 administration as may be necessary for the proper and efficient  
153 operation of the Medicaid program, fully utilizing computer  
154 equipment as may be necessary to oversee and control all current  
155 expenditures for purposes of this article, and to closely monitor  
156 and supervise all recipient payments and vendors rendering  
157 services under this article. Notwithstanding any other provision  
158 of state law, the division is authorized to enter into a ten-year  
159 contract(s) with a vendor(s) to provide services described in this  
160 paragraph (m). Notwithstanding any provision of law to the  
161 contrary, the division is authorized to extend its Medicaid  
162 Management Information Systems, including all related components  
163 and services, and Decision Support System, including all related  
164 components and services, contracts \* \* \* in effect on June 30,



165 2020, for a period not to exceed \* \* \* two (2) years without  
166 complying with \* \* \* state procurement regulations;

167 (n) To cooperate and contract with the federal  
168 government for the purpose of providing Medicaid to Vietnamese and  
169 Cambodian refugees, under the provisions of Public Law 94-23 and  
170 Public Law 94-24, including any amendments to those laws, only to  
171 the extent that the Medicaid assistance and the administrative  
172 cost related thereto are one hundred percent (100%) reimbursable  
173 by the federal government. For the purposes of Section 43-13-117,  
174 persons receiving Medicaid under Public Law 94-23 and Public Law  
175 94-24, including any amendments to those laws, shall not be  
176 considered a new group or category of recipient; and

177 (o) The division shall impose penalties upon Medicaid  
178 only, Title XIX participating long-term care facilities found to  
179 be in noncompliance with division and certification standards in  
180 accordance with federal and state regulations, including interest  
181 at the same rate calculated by the United States Department of  
182 Health and Human Services and/or the Centers for Medicare and  
183 Medicaid Services (CMS) under federal regulations.

184 (2) The division also shall exercise such additional powers  
185 and perform such other duties as may be conferred upon the  
186 division by act of the Legislature.

187 (3) The division, and the State Department of Health as the  
188 agency for licensure of health care facilities and certification  
189 and inspection for the Medicaid and/or Medicare programs, shall



190 contract for or otherwise provide for the consolidation of on-site  
191 inspections of health care facilities that are necessitated by the  
192 respective programs and functions of the division and the  
193 department.

194 (4) The division and its hearing officers shall have power  
195 to preserve and enforce order during hearings; to issue subpoenas  
196 for, to administer oaths to and to compel the attendance and  
197 testimony of witnesses, or the production of books, papers,  
198 documents and other evidence, or the taking of depositions before  
199 any designated individual competent to administer oaths; to  
200 examine witnesses; and to do all things conformable to law that  
201 may be necessary to enable them effectively to discharge the  
202 duties of their office. In compelling the attendance and  
203 testimony of witnesses, or the production of books, papers,  
204 documents and other evidence, or the taking of depositions, as  
205 authorized by this section, the division or its hearing officers  
206 may designate an individual employed by the division or some other  
207 suitable person to execute and return that process, whose action  
208 in executing and returning that process shall be as lawful as if  
209 done by the sheriff or some other proper officer authorized to  
210 execute and return process in the county where the witness may  
211 reside. In carrying out the investigatory powers under the  
212 provisions of this article, the executive director or other  
213 designated person or persons may examine, obtain, copy or  
214 reproduce the books, papers, documents, medical charts,



215 prescriptions and other records relating to medical care and  
216 services furnished by the provider to a recipient or designated  
217 recipients of Medicaid services under investigation. In the  
218 absence of the voluntary submission of the books, papers,  
219 documents, medical charts, prescriptions and other records, the  
220 Governor, the executive director, or other designated person may  
221 issue and serve subpoenas instantly upon the provider, his or her  
222 agent, servant or employee for the production of the books,  
223 papers, documents, medical charts, prescriptions or other records  
224 during an audit or investigation of the provider. If any provider  
225 or his or her agent, servant or employee refuses to produce the  
226 records after being duly subpoenaed, the executive director may  
227 certify those facts and institute contempt proceedings in the  
228 manner, time and place as authorized by law for administrative  
229 proceedings. As an additional remedy, the division may recover  
230 all amounts paid to the provider covering the period of the audit  
231 or investigation, inclusive of a legal rate of interest and a  
232 reasonable attorney's fee and costs of court if suit becomes  
233 necessary. Division staff shall have immediate access to the  
234 provider's physical location, facilities, records, documents,  
235 books, and any other records relating to medical care and services  
236 rendered to recipients during regular business hours.

237 (5) If any person in proceedings before the division  
238 disobeys or resists any lawful order or process, or misbehaves  
239 during a hearing or so near the place thereof as to obstruct the



240 hearing, or neglects to produce, after having been ordered to do  
241 so, any pertinent book, paper or document, or refuses to appear  
242 after having been subpoenaed, or upon appearing refuses to take  
243 the oath as a witness, or after having taken the oath refuses to  
244 be examined according to law, the executive director shall certify  
245 the facts to any court having jurisdiction in the place in which  
246 it is sitting, and the court shall thereupon, in a summary manner,  
247 hear the evidence as to the acts complained of, and if the  
248 evidence so warrants, punish that person in the same manner and to  
249 the same extent as for a contempt committed before the court, or  
250 commit that person upon the same condition as if the doing of the  
251 forbidden act had occurred with reference to the process of, or in  
252 the presence of, the court.

253 (6) In suspending or terminating any provider from  
254 participation in the Medicaid program, the division shall preclude  
255 the provider from submitting claims for payment, either personally  
256 or through any clinic, group, corporation or other association to  
257 the division or its fiscal agents for any services or supplies  
258 provided under the Medicaid program except for those services or  
259 supplies provided before the suspension or termination. No  
260 clinic, group, corporation or other association that is a provider  
261 of services shall submit claims for payment to the division or its  
262 fiscal agents for any services or supplies provided by a person  
263 within that organization who has been suspended or terminated from  
264 participation in the Medicaid program except for those services or



265 supplies provided before the suspension or termination. When this  
266 provision is violated by a provider of services that is a clinic,  
267 group, corporation or other association, the division may suspend  
268 or terminate that organization from participation. Suspension may  
269 be applied by the division to all known affiliates of a provider,  
270 provided that each decision to include an affiliate is made on a  
271 case-by-case basis after giving due regard to all relevant facts  
272 and circumstances. The violation, failure or inadequacy of  
273 performance may be imputed to a person with whom the provider is  
274 affiliated where that conduct was accomplished within the course  
275 of his or her official duty or was effectuated by him or her with  
276 the knowledge or approval of that person.

277 (7) The division may deny or revoke enrollment in the  
278 Medicaid program to a provider if any of the following are found  
279 to be applicable to the provider, his or her agent, a managing  
280 employee or any person having an ownership interest equal to five  
281 percent (5%) or greater in the provider:

282 (a) Failure to truthfully or fully disclose any and all  
283 information required, or the concealment of any and all  
284 information required, on a claim, a provider application or a  
285 provider agreement, or the making of a false or misleading  
286 statement to the division relative to the Medicaid program.

287 (b) Previous or current exclusion, suspension,  
288 termination from or the involuntary withdrawing from participation  
289 in the Medicaid program, any other state's Medicaid program,



290 Medicare or any other public or private health or health insurance  
291 program. If the division ascertains that a provider has been  
292 convicted of a felony under federal or state law for an offense  
293 that the division determines is detrimental to the best interest  
294 of the program or of Medicaid beneficiaries, the division may  
295 refuse to enter into an agreement with that provider, or may  
296 terminate or refuse to renew an existing agreement.

297 (c) Conviction under federal or state law of a criminal  
298 offense relating to the delivery of any goods, services or  
299 supplies, including the performance of management or  
300 administrative services relating to the delivery of the goods,  
301 services or supplies, under the Medicaid program, any other  
302 state's Medicaid program, Medicare or any other public or private  
303 health or health insurance program.

304 (d) Conviction under federal or state law of a criminal  
305 offense relating to the neglect or abuse of a patient in  
306 connection with the delivery of any goods, services or supplies.

307 (e) Conviction under federal or state law of a criminal  
308 offense relating to the unlawful manufacture, distribution,  
309 prescription or dispensing of a controlled substance.

310 (f) Conviction under federal or state law of a criminal  
311 offense relating to fraud, theft, embezzlement, breach of  
312 fiduciary responsibility or other financial misconduct.



313 (g) Conviction under federal or state law of a criminal  
314 offense punishable by imprisonment of a year or more that involves  
315 moral turpitude, or acts against the elderly, children or infirm.

316 (h) Conviction under federal or state law of a criminal  
317 offense in connection with the interference or obstruction of any  
318 investigation into any criminal offense listed in paragraphs (c)  
319 through (i) of this subsection.

320 (i) Sanction for a violation of federal or state laws  
321 or rules relative to the Medicaid program, any other state's  
322 Medicaid program, Medicare or any other public health care or  
323 health insurance program.

324 (j) Revocation of license or certification.

325 (k) Failure to pay recovery properly assessed or  
326 pursuant to an approved repayment schedule under the Medicaid  
327 program.

328 (l) Failure to meet any condition of enrollment.

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

