

By: Senator(s) McDaniel

To: Insurance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2857

1 AN ACT TO AMEND SECTION 83-81-1, MISSISSIPPI CODE OF 1972, TO
2 CHANGE THE NAME OF THE MISSISSIPPI DIRECT PRIMARY CARE ACT TO THE
3 MISSISSIPPI DIRECT HEALTH CARE ACT; TO AMEND SECTION 83-81-3,
4 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "PRIMARY
5 CARE PROVIDER" TO INCLUDE OTHER HEALTH CARE PROVIDERS; TO AMEND
6 SECTIONS 83-81-5, 83-81-7, 83-81-9, 83-81-11 AND 83-1-101,
7 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 83-81-1, Mississippi Code of 1972, is
10 amended as follows:

11 83-81-1. This chapter shall be known as the "Mississippi
12 Direct * * * Health Care Act."

13 **SECTION 2.** Section 83-81-3, Mississippi Code of 1972, is
14 amended as follows:

15 83-81-3. As used in this chapter, the following words and
16 phrases have the meanings as defined in this section unless the
17 context clearly indicates otherwise:

18 (a) "Primary or other health care provider" means an
19 individual or other legal entity that is licensed, registered, or
20 otherwise authorized to provide * * * medical care services in



21 this state under * * * existing state law. "Primary or other
22 health care provider" includes an individual or other legal entity
23 alone or with others professionally associated with the individual
24 or other legal entity.

25 (b) "Direct * * * health care agreement" means a
26 contract between a primary or other health care provider and an
27 individual patient or his or her legal representative or between a
28 primary or other health care provider and an employer on behalf of
29 its employees in which the * * * provider agrees to provide * * *
30 services to the individual patient for an agreed-upon fee and
31 period of time.

32 (c) "Direct primary or other health care service" means
33 a service that is provided by charging a periodic
34 fee-for-services; not billing any third parties on a
35 fee-for-service basis for the individual covered by the * * * care
36 agreement; and allowing for a per-visit fee to be charged to the
37 patient at the time of service.

38 (d) "Primary or other health care service" includes,
39 but is not limited to, the screening, assessment, diagnosis, and
40 treatment for the purpose of promotion of health or the detection
41 and management of disease or injury within the competency,
42 training, and scope of the primary or other health care provider.
43 This may also include fees for advanced technology or techniques
44 used within the practice that may offer benefits for improved
45 patient engagement.



46 **SECTION 3.** Section 83-81-5, Mississippi Code of 1972, is
47 amended as follows:

48 83-81-5. A direct * * * health care agreement shall not be
49 considered to be an insurance product nor shall the primary or
50 other health care provider be considered to be engaging in the
51 business of insurance for the purpose of this Title 83,
52 Mississippi Code of 1972.

53 **SECTION 4.** Section 83-81-7, Mississippi Code of 1972, is
54 amended as follows:

55 83-81-7. A primary or other health care provider or agent of
56 a primary or other health care provider is not required to obtain
57 a certificate of authority or license under this chapter to
58 market, sell, or offer to sell a direct * * * health care
59 agreement.

60 **SECTION 5.** Section 83-81-9, Mississippi Code of 1972, is
61 amended as follows:

62 83-81-9. To offer a direct primary or other health care
63 service, the primary or other health care provider must obtain a
64 completed direct * * * health care agreement for each patient
65 obtaining direct primary or other health care services. In order
66 to be considered a direct * * * health care agreement for the
67 purposes of this section, the * * * agreement must meet all of the
68 following requirements:

69 (a) Be in writing;



70 (b) Be signed by the individual patient or his or her
71 legal representative and be made available for the records of the
72 primary or other health care provider or agent of the primary or
73 other health care provider;

74 (c) Allow either party to terminate the agreement on
75 written notice to the other party;

76 (d) Describe the scope of primary or other health care
77 services that are covered by the periodic fee;

78 (e) Specify the periodic fee for ongoing care under the
79 agreement;

80 (f) Specify the duration of the agreement, any
81 automatic renewal periods, and prohibit the prepayment of the
82 agreement. Upon discontinuing the agreement, all unearned funds,
83 as determined by the lesser of normal undiscounted fee-for-service
84 charges that would have been billed in place of the agreement or
85 the remainder of the membership contract, are returned to the
86 patient. Upon termination of the agreement, the patient shall not
87 be liable for the remainder of payment associated with the
88 agreement or membership contract. However, the patient shall be
89 responsible for the true cost of services rendered regardless of
90 when the contract is terminated.

91 (g) Prominently state in writing the following:

92 (i) That the agreement is not health insurance;



93 (ii) That the agreement standing alone does not
94 satisfy the health benefit requirements as established in the
95 federal Affordable Care Act; and

96 (iii) That, without adequate insurance coverage in
97 addition to this agreement, the patient may be subject to fines
98 and penalties associated with the federal Affordable Care Act.

99 **SECTION 6.** Section 83-81-11, Mississippi Code of 1972, is
100 amended as follows:

101 83-81-11. Those primary or other health care providers who
102 offer direct primary or other health care services to their
103 patients may not decline to accept new direct primary or other
104 health care patients or discontinue care to existing patients
105 solely because of the patient's health status. A direct primary
106 or other health care provider may decline to accept a patient if
107 the practice has reached its maximum capacity, or if the patient's
108 medical condition is such that the provider is unable to provide
109 the appropriate level and type of primary or other health care
110 services the patient requires. So long as the direct primary or
111 other health care provider provides the patient notice and
112 opportunity to obtain care from another physician, the direct
113 primary or other health care provider may discontinue care for
114 direct primary or other health care patients if:

- 115 (a) The patient fails to pay the periodic fee;
116 (b) The patient has performed an act of fraud;



117 (c) The patient repeatedly fails to adhere to the
118 recommended treatment plan;

119 (d) The patient is abusive and presents an emotional or
120 physical danger to the staff or other patients of the direct
121 practice;

122 (e) The direct primary or other health care provider
123 discontinues operation as a direct primary or other health care
124 provider; or

125 (f) The direct primary or other health care * * *
126 provider feels that the relationship is no longer therapeutic for
127 the patient due to a dysfunctional * * * provider/patient
128 relationship.

129 **SECTION 7.** Section 83-1-101, Mississippi Code of 1972, is
130 amended as follows:

131 83-1-101. Notwithstanding any other provision of law to the
132 contrary, and except as provided herein, any person or other
133 entity which provides coverage in this state for medical,
134 surgical, chiropractic, physical therapy, speech pathology,
135 audiology, professional mental health, dental, hospital, or
136 optometric expenses, whether such coverage is by direct payment,
137 reimbursement, or otherwise, shall be presumed to be subject to
138 the jurisdiction of the State Insurance Department, unless:

139 (a) The person or other entity shows that while
140 providing such services it is subject to the jurisdiction of



141 another agency of this state, any subdivisions thereof, or the
142 federal government; or

143 (b) The person or other entity is providing coverage
144 under the Direct * * * Health Care Act in Sections 83-81-1 through
145 83-81-11.

146 **SECTION 8.** This act shall take effect and be in force from
147 and after July 1, 2020, and shall stand repealed on June 30, 2020.

