

By: Representative Yancey

To: Insurance

HOUSE BILL NO. 1265

1 AN ACT TO PROVIDE THAT AN INSURED INDIVIDUAL SHALL BE  
 2 ENTITLED TO REIMBURSEMENT FOR CERTAIN SERVICES WHENEVER HIS OR HER  
 3 POLICY OF INSURANCE, MEDICAL SERVICE PLAN, HOSPITAL SERVICE  
 4 CONTRACT, OR HOSPITAL AND MEDICAL SERVICE CONTRACT ISSUED IN THE  
 5 STATE OF MISSISSIPPI PROVIDES FOR REIMBURSEMENT FOR ANY SERVICE  
 6 WHICH IS WITHIN THE LAWFUL SCOPE OF PRACTICE OF A DULY LICENSED  
 7 PHARMACIST; TO AUTHORIZE LICENSED PHARMACISTS TO PARTICIPATE IN  
 8 SUCH POLICIES, PLANS, OR CONTRACTS PROVIDING FOR PHARMACY  
 9 SERVICES; TO BRING FORWARD SECTIONS 83-9-6 AND 83-41-219,  
 10 MISSISSIPPI CODE OF 1972, FOR PURPOSE OF POSSIBLE AMENDMENT; AND  
 11 FOR RELATED PURPOSES.

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

13 **SECTION 1.** Whenever any policy of insurance, medical service  
 14 plan, hospital service contract, or hospital and medical service  
 15 contract issued in the State of Mississippi provides for  
 16 reimbursement for any service which is within the lawful scope of  
 17 practice of a duly licensed pharmacist as defined in Section  
 18 73-21-73, the insured individual or other person entitled to  
 19 benefits under such policy, plan or contract is entitled to  
 20 reimbursement for such services. Duly licensed pharmacists are  
 21 entitled to participate in such policies, plans, or contracts



22 providing for pharmacy services, as authorized by the laws of the  
23 State of Mississippi.

24 **SECTION 2.** Section 83-9-6, Mississippi Code of 1972, is  
25 brought forward as follows:

26 83-9-6. (1) This section shall apply to all health benefit  
27 plans providing pharmaceutical services benefits, including  
28 prescription drugs, to any resident of Mississippi. This section  
29 shall also apply to insurance companies and health maintenance  
30 organizations that provide or administer coverages and benefits  
31 for prescription drugs. This section shall not apply to any  
32 entity that has its own facility, employs or contracts with  
33 physicians, pharmacists, nurses and other health care personnel,  
34 and that dispenses prescription drugs from its own pharmacy to its  
35 employees and dependents enrolled in its health benefit plan; but  
36 this section shall apply to an entity otherwise excluded that  
37 contracts with an outside pharmacy or group of pharmacies to  
38 provide prescription drugs and services.

39 (2) As used in this section:

40 (a) "Copayment" means a type of cost sharing whereby  
41 insured or covered persons pay a specified predetermined amount  
42 per unit of service with their insurer paying the remainder of the  
43 charge. The copayment is incurred at the time the service is  
44 used. The copayment may be a fixed or variable amount.



45           (b) "Contract provider" means a pharmacy granted the  
46 right to provide prescription drugs and pharmacy services  
47 according to the terms of the insurer.

48           (c) "Health benefit plan" means any entity or program  
49 that provides reimbursement for pharmaceutical services.

50           (d) "Insurer" means any entity that provides or offers  
51 a health benefit plan.

52           (e) "Pharmacist" means a pharmacist licensed by the  
53 Mississippi State Board of Pharmacy.

54           (f) "Pharmacy" means a place licensed by the  
55 Mississippi State Board of Pharmacy.

56           (3) A health insurance plan, policy, employee benefit plan  
57 or health maintenance organization may not:

58           (a) Prohibit or limit any person who is a participant  
59 or beneficiary of the policy or plan from selecting a pharmacy or  
60 pharmacist of his choice who has agreed to participate in the plan  
61 according to the terms offered by the insurer;

62           (b) Deny a pharmacy or pharmacist the right to  
63 participate as a contract provider under the policy or plan if the  
64 pharmacy or pharmacist agrees to provide pharmacy services,  
65 including but not limited to prescription drugs, that meet the  
66 terms and requirements set forth by the insurer under the policy  
67 or plan and agrees to the terms of reimbursement set forth by the  
68 insurer;



69 (c) Impose upon a beneficiary of pharmacy services  
70 under a health benefit plan any copayment, fee or condition that  
71 is not equally imposed upon all beneficiaries in the same benefit  
72 category, class or copayment level under the health benefit plan  
73 when receiving services from a contract provider;

74 (d) Impose a monetary advantage or penalty under a  
75 health benefit plan that would affect a beneficiary's choice among  
76 those pharmacies or pharmacists who have agreed to participate in  
77 the plan according to the terms offered by the insurer. Monetary  
78 advantage or penalty includes higher copayment, a reduction in  
79 reimbursement for services, or promotion of one participating  
80 pharmacy over another by these methods;

81 (e) Reduce allowable reimbursement for pharmacy  
82 services to a beneficiary under a health benefit plan because the  
83 beneficiary selects a pharmacy of his or her choice, so long as  
84 that pharmacy has enrolled with the health benefit plan under the  
85 terms offered to all pharmacies in the plan coverage area;

86 (f) Require a beneficiary, as a condition of payment or  
87 reimbursement, to purchase pharmacy services, including  
88 prescription drugs, exclusively through a mail-order pharmacy; or

89 (g) Impose upon a beneficiary any copayment, amount of  
90 reimbursement, number of days of a drug supply for which  
91 reimbursement will be allowed, or any other payment or condition  
92 relating to purchasing pharmacy services from any pharmacy,  
93 including prescription drugs, that is more costly or more



94 restrictive than that which would be imposed upon the beneficiary  
95 if such services were purchased from a mail-order pharmacy or any  
96 other pharmacy that is willing to provide the same services or  
97 products for the same cost and copayment as any mail order  
98 service.

99 (4) A pharmacy, by or through a pharmacist acting on its  
100 behalf as its employee, agent or owner, may not waive, discount,  
101 rebate or distort a copayment of any insurer, policy or plan or a  
102 beneficiary's coinsurance portion of a prescription drug coverage  
103 or reimbursement and if a pharmacy, by or through a pharmacist's  
104 acting on its behalf as its employee, agent or owner, provides a  
105 pharmacy service to an enrollee of a health benefit plan that  
106 meets the terms and requirements of the insurer under a health  
107 benefit plan, the pharmacy shall provide its pharmacy services to  
108 all enrollees of that health benefit plan on the same terms and  
109 requirements of the insurer. A violation of this subsection shall  
110 be a violation of the Pharmacy Practice Act subjecting the  
111 pharmacist as a licensee to disciplinary authority of the State  
112 Board of Pharmacy.

113 (5) If a health benefit plan providing reimbursement to  
114 Mississippi residents for prescription drugs restricts pharmacy  
115 participation, the entity providing the health benefit plan shall  
116 notify, in writing, all pharmacies within the geographical  
117 coverage area of the health benefit plan, and offer to the  
118 pharmacies the opportunity to participate in the health benefit



119 plan at least sixty (60) days before the effective date of the  
120 plan or before July 1, 1995, whichever comes first. All  
121 pharmacies in the geographical coverage area of the plan shall be  
122 eligible to participate under identical reimbursement terms for  
123 providing pharmacy services, including prescription drugs. The  
124 entity providing the health benefit plan shall, through reasonable  
125 means, on a timely basis and on regular intervals, inform the  
126 beneficiaries of the plan of the names and locations of pharmacies  
127 that are participating in the plan as providers of pharmacy  
128 services and prescription drugs. Additionally, participating  
129 pharmacies shall be entitled to announce their participation to  
130 their customers through a means acceptable to the pharmacy and the  
131 entity providing the health benefit plans. The pharmacy  
132 notification provisions of this section shall not apply when an  
133 individual or group is enrolled, but when the plan enters a  
134 particular county of the state.

135 (6) A violation of this section creates a civil cause of  
136 action for injunctive relief in favor of any person or pharmacy  
137 aggrieved by the violation.

138 (7) The Commissioner of Insurance shall not approve any  
139 health benefit plan providing pharmaceutical services which does  
140 not conform to this section.

141 (8) Any provision in a health benefit plan which is  
142 executed, delivered or renewed, or otherwise contracted for in



143 this state that is contrary to this section shall, to the extent  
144 of the conflict, be void.

145 (9) It is a violation of this section for any insurer or any  
146 person to provide any health benefit plan providing for  
147 pharmaceutical services to residents of this state that does not  
148 conform to this section.

149 **SECTION 3.** Section 83-41-219, Mississippi Code of 1972, is  
150 brought forward as follows:

151 83-41-219. (1) If any health insurance issuer or other  
152 health insurance benefit payer limits the time in which a health  
153 care provider or other person is required to submit a claim for  
154 payment, the health insurance issuer or other health insurance  
155 benefit payer shall have the same time limit following payment of  
156 the claim to perform any review or audit for reconsidering the  
157 validity of the claim and requesting reimbursement for payment of  
158 an invalid claim or overpayment of a claim.

159 (2) If any health insurance issuer or other health insurance  
160 benefit payer does not limit the time in which a health care  
161 provider or other person is required to submit a claim for  
162 payment, the health insurance issuer or other health insurance  
163 benefit payer may not request reimbursement or offset another  
164 claim payment for reimbursement of an invalid claim or overpayment  
165 of a claim more than twelve (12) months after the payment of an  
166 invalid or overpaid claim.

167 (3) Nothing in this section shall apply to:



168 (a) Audits that were opened before July 1, 2012;

169 (b) Audits of pharmacies as provided in Section  
170 73-21-175 et seq.;

171 (c) Claims submitted by providers for reimbursement  
172 under the Mississippi Medicaid Program, except that all audits of  
173 claims and payments made by or on behalf of the Division of  
174 Medicaid are limited to a maximum of five (5) years after final  
175 filing of the claim; and

176 (d) Claims submitted in the context of  
177 misrepresentation, omission, concealment, or fraud by the health  
178 care provider or other person.

179 **SECTION 4.** This act shall take effect and be in force from  
180 and after July 1, 2024.

