

**Adopted
AMENDMENT NO 1 PROPOSED TO**

Cmte Sub for Senate Bill No. 2867

BY: Senator(s) Blackwell

1 **AMEND after line 4428 by inserting the following as a new**
2 **section and renumbering the subsequent section(s):**

3 **SECTION 19.** Section 43-13-107, Mississippi Code of 1972, is
4 amended as follows:

5 43-13-107. (1) The Division of Medicaid is created in the
6 Office of the Governor and established to administer this article
7 and perform such other duties as are prescribed by law.

8 (2) (a) The Governor shall appoint a full-time executive
9 director, with the advice and consent of the Senate, who shall be
10 either (i) a physician with administrative experience in a medical
11 care or health program, or (ii) a person holding a graduate degree
12 in medical care administration, public health, hospital
13 administration, or the equivalent, or (iii) a person holding a
14 bachelor's degree with at least three (3) years' experience in



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

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

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

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



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

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

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

56 (i) The Governor shall appoint five (5) members,
57 one (1) from each congressional district and one (1) from the
58 state at large;

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

61 (iii) The Speaker of the House of Representatives
62 shall appoint three (3) members, one (1) from each Supreme Court
63 district.



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

68 (c) The respective Chairmen of the House Medicaid
69 Committee, the House Public Health and Human Services Committee,
70 the House Appropriations Committee, the Senate Medicaid Committee,
71 the Senate Public Health and Welfare Committee and the Senate
72 Appropriations Committee, or their designees, one (1) member of
73 the State Senate appointed by the Lieutenant Governor and one (1)
74 member of the House of Representatives appointed by the Speaker of
75 the House, shall serve as ex officio nonvoting members of the
76 advisory committee.

77 (d) In addition to the committee members required by
78 paragraph (b), the advisory committee shall consist of such other
79 members as are necessary to meet the requirements of the federal
80 regulation applicable to the advisory committee, who shall be
81 appointed as provided in the federal regulation.

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

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



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

96 (g) The advisory committee shall meet not less than
97 quarterly, and advisory committee members shall be furnished
98 written notice of the meetings at least ten (10) days before the
99 date of the meeting.

100 (h) The executive director shall submit to the advisory
101 committee all amendments, modifications and changes to the state
102 plan for the operation of the Medicaid program, for review by the
103 advisory committee before the amendments, modifications or changes
104 may be implemented by the division.

105 (i) The advisory committee, among its duties and
106 responsibilities, shall:

107 (i) Advise the division with respect to
108 amendments, modifications and changes to the state plan for the
109 operation of the Medicaid program;

110 (ii) Advise the division with respect to issues
111 concerning receipt and disbursement of funds and eligibility for
112 Medicaid;



113 (iii) Advise the division with respect to
114 determining the quantity, quality and extent of medical care
115 provided under this article;

116 (iv) Communicate the views of the medical care
117 professions to the division and communicate the views of the
118 division to the medical care professions;

119 (v) Gather information on reasons that medical
120 care providers do not participate in the Medicaid program and
121 changes that could be made in the program to encourage more
122 providers to participate in the Medicaid program, and advise the
123 division with respect to encouraging physicians and other medical
124 care providers to participate in the Medicaid program;

125 (vi) Provide a written report on or before
126 November 30 of each year to the Governor, Lieutenant Governor and
127 Speaker of the House of Representatives.

128 (j) Effective July 9, 2025, there is established a
129 Medicaid Advisory Committee and Beneficiary Advisory Committee as
130 required pursuant to federal regulations. The Medicaid Advisory
131 Committee shall consist of no more than twenty (20) members. All
132 members of the Medical Care Advisory Committee serving on January
133 1, 2025, shall be selected to serve on the Medicaid Advisory
134 Committee and such members shall serve until July 1, 2028. Such
135 members shall not be reappointed for immediately successive and
136 consecutive terms. If any such member resigns, then the division
137 shall replace the member for the remainder of the term. Other



138 members of the Medicaid Advisory Committee and Beneficiary
139 Advisory Committee shall be selected by the division consistent
140 with federal regulations. Committee member terms shall not be
141 followed immediately by a consecutive term for the same member, on
142 a rotating and continuous basis.

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

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

151 (ii) Review and initiate ongoing interventions for
152 physicians and pharmacists, targeted toward therapy problems or
153 individuals identified in the course of retrospective drug use
154 reviews.

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

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

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



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

174 (5) (a) There is established a Pharmacy and Therapeutics
175 Committee, which shall be appointed by the Governor, or his
176 designee.

177 (b) The committee shall meet as often as needed to
178 fulfill its responsibilities and obligations as set forth in this
179 section, and committee members shall be furnished written notice
180 of the meetings at least ten (10) days before the date of the
181 meeting.

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



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

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

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



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

219 (f) Upon reviewing and considering all recommendations
220 including recommendations of the committee, comments, and data,
221 the executive director shall make a final determination whether to
222 require prior approval of a therapeutic class of drugs, or modify
223 existing prior approval requirements for a therapeutic class of
224 drugs.

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

233 (h) Members of the committee shall dispose of matters
234 before the committee in an unbiased and professional manner. If a
235 matter being considered by the committee presents a real or
236 apparent conflict of interest for any member of the committee,
237 that member shall disclose the conflict in writing to the



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

240 **FURTHER, AMEND the title to conform by inserting the**
241 **following after the semicolon on line 156:**

242 TO AMEND SECTION 43-13-107, MISSISSIPPI CODE OF 1972, TO ESTABLISH
243 A MEDICAID ADVISORY COMMITTEE AND BENEFICIARY ADVISORY COMMITTEE
244 AS REQUIRED PURSUANT TO FEDERAL REGULATIONS; TO PROVIDE THAT ALL
245 MEMBERS OF THE MEDICAL CARE ADVISORY COMMITTEE SERVING ON JANUARY
246 1, 2025, SHALL BE SELECTED TO SERVE ON THE MEDICAID ADVISORY
247 COMMITTEE AND SUCH MEMBERS SHALL SERVE UNTIL JULY 1, 2028;

