

By: Thornton, Dickson, Flaggs, Fleming,
Gibbs, Green, Henderson, Huddleston,
Middleton, Myers, Robinson (63rd), Scott
(80th), Thomas, Wallace, Watson, West

To: Public Health and
Welfare;
Appropriations

HOUSE BILL NO. 1237

1 AN ACT TO BE KNOWN AS THE AIDS AND HIV EDUCATION, SERVICES
2 AND NONDISCRIMINATION ACT; TO DESIGNATE THE STATE DEPARTMENT OF
3 HEALTH AS THE PRIMARY SOURCE FOR AIDS AND HIV EDUCATION MATERIALS,
4 POLICIES AND INFORMATION IN THE STATE; TO PROVIDE THAT JACKSON
5 STATE UNIVERSITY SHALL ADVISE THE DEPARTMENT ON CARRYING OUT ITS
6 DUTIES UNDER THIS ACT; TO SPECIFY DUTIES OF THE DEPARTMENT
7 REGARDING AIDS AND HIV EDUCATION; TO DIRECT THE DEPARTMENT TO
8 DEVELOP MODEL EDUCATION PROGRAMS TO EDUCATE THE PUBLIC ABOUT AIDS
9 AND HIV; TO PROVIDE FOR SPECIAL COMPONENTS TO BE INCLUDED IN THE
10 EDUCATION PROGRAMS; TO REQUIRE LICENSED HEALTH CARE FACILITIES TO
11 HAVE THEIR EMPLOYEES COMPLETE AN EDUCATION COURSE ABOUT HIV
12 INFECTION; TO DIRECT THE DEPARTMENT TO DEVELOP MODEL EDUCATION
13 PROGRAMS FOR INSTRUCTION ABOUT THE BASICS OF AIDS AND HIV, TO BE
14 USED IN SCHOOL SYSTEMS; TO DIRECT THE STATE BOARD OF EDUCATION TO
15 REQUIRE ALL PUBLIC SCHOOL DISTRICTS TO INCLUDE INSTRUCTION ABOUT
16 THE BASICS OF AIDS AND HIV AS PART OF THEIR CURRICULUM; TO DIRECT
17 THE DEPARTMENT TO MAINTAIN INFORMATION ON SOURCES OF FUNDING FOR
18 AIDS AND HIV EDUCATION AND SERVICES; TO DIRECT THE DEPARTMENT TO
19 PROVIDE TECHNICAL ASSISTANCE TO NONPROFIT COMMUNITY ORGANIZATIONS;
20 TO DIRECT THE DEPARTMENT TO ESTABLISH AND ADMINISTER A STATE GRANT
21 PROGRAM TO NONPROFIT COMMUNITY ORGANIZATIONS FOR AIDS AND HIV
22 EDUCATION AND SERVICE PROGRAMS; TO REQUIRE STATE AGENCIES TO
23 PROVIDE THEIR EMPLOYEES INFORMATION ABOUT HIV INFECTION; TO
24 REQUIRE CERTAIN STATE AGENCIES TO MAKE AIDS AND HIV EDUCATION
25 AVAILABLE TO THEIR CLIENTS, PATIENTS AND RESIDENTS; TO AUTHORIZE
26 THE DEPARTMENT TO PROVIDE FOR HOME- AND COMMUNITY-BASED SERVICES
27 FOR PERSONS DIAGNOSED WITH AIDS WHO ARE NOT ELIGIBLE FOR MEDICAID;
28 TO DIRECT THE DEPARTMENT TO EXPAND THE COVERAGE OF THE AIDS DRUG
29 ASSISTANCE PROGRAM TO THE EXTENT THAT STATE FUNDS ARE APPROPRIATED
30 FOR THAT PURPOSE; TO PROVIDE THAT STATE FUNDS FOR THE AIDS DRUG
31 ASSISTANCE PROGRAM SHALL BE USED TO SUPPLEMENT THE FUNDS THAT THE
32 STATE RECEIVES FROM THE FEDERAL GOVERNMENT UNDER THE RYAN WHITE
33 COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT; TO DIRECT THE
34 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER TO CONDUCT CLINICAL
35 TRIALS FOR THE TREATMENT OF PERSONS WHO HAVE AIDS OR HIV; TO AMEND
36 SECTION 43-13-117, MISSISSIPPI CODE OF 1972, TO PROVIDE MEDICAID
37 COVERAGE FOR DRUGS USED FOR THE TREATMENT OF AIDS; TO PROVIDE
38 MEDICAID COVERAGE FOR HOME- AND COMMUNITY-BASED SERVICES FOR
39 ELIGIBLE RECIPIENTS DIAGNOSED WITH AIDS; TO PROVIDE MEDICAID
40 COVERAGE FOR HOSPICE CARE FOR PATIENTS WHO HAVE AIDS; TO REQUIRE
41 THE STATE DEPARTMENT OF HEALTH TO DEVELOP MODEL WORKPLACE
42 GUIDELINES CONCERNING PERSONS WITH AIDS AND HIV INFECTION; TO
43 REQUIRE STATE AGENCIES TO ADOPT AND IMPLEMENT WORKPLACE GUIDELINES
44 CONCERNING PERSONS WITH AIDS AND HIV INFECTION; TO REQUIRE
45 ENTITIES CONTRACTING WITH OR FUNDED BY CERTAIN STATE AGENCIES TO
46 ADOPT AND IMPLEMENT WORKPLACE GUIDELINES CONCERNING PERSONS WITH
47 AIDS AND HIV INFECTION THAT ARE SUBSTANTIALLY SIMILAR TO THE
48 GUIDELINES ADOPTED BY THE CONTRACTING OR FUNDING AGENCY; TO
49 PROHIBIT DISCRIMINATION AGAINST PERSONS INFECTED WITH HIV IN
50 EMPLOYMENT, EDUCATION, HOUSING, ACCESS TO HEALTH CARE, PUBLIC

51 ACCOMMODATIONS OR GOVERNMENTAL SERVICES; TO CREATE A CAUSE OF
52 ACTION AGAINST PERSONS ENGAGED IN DISCRIMINATION IN VIOLATION OF
53 THIS ACT; AND FOR RELATED PURPOSES.

54

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

56 SECTION 1. This act shall be known as the "AIDS and HIV
57 Education, Services and Nondiscrimination Act."

58 SECTION 2. As used in this act, unless the context requires
59 otherwise:

60 (a) "AIDS" means acquired immune deficiency syndrome as
61 defined by the Centers for Disease Control of the United States
62 Public Health Service.

63 (b) "Board" means the State Board of Health.

64 (c) "Communicable disease" means any disease defined as
65 a communicable disease by the State Board of Health under Section
66 41-23-1.

67 (d) "Department" means the State Department of Health.

68 (e) "HIV" means the human immunodeficiency virus.

69 (f) "State agency" means:

70 (i) Any agency, department, institution or
71 instrumentality in the executive branch of state government that
72 was created by the Mississippi Constitution or a state statute,
73 including state institutions of higher learning;

74 (ii) The Mississippi Legislature or any
75 legislative agency; and

76 (iii) The Mississippi Supreme Court, any circuit
77 court, or chancery court, the Board of Bar Admissions, the
78 Mississippi Bar or another state judicial agency.

79 SECTION 3. (1) The Legislature shall appropriate sufficient
80 funds each year for the AIDS and HIV education, prevention, risk
81 reduction, treatment and social support services programs provided
82 for under this act.

83 (2) All state agencies involved in AIDS and HIV education,
84 prevention, risk reduction, treatment and social support services

85 programs shall aggressively seek to maximize federal funds
86 available for those programs.

87 SECTION 4. The department is the primary source for AIDS and
88 HIV education, prevention and risk reduction materials, policies
89 and information in this state. Jackson State University shall
90 advise the department on carrying out its duties under this act to
91 help ensure that AIDS and HIV education, prevention, risk
92 reduction, treatment and social support services are appropriately
93 addressed in the state.

94 SECTION 5. The department shall:

95 (a) Promote information and education programs for the
96 general public to correct misinformation about AIDS and HIV
97 infection, to identify what programs are available to persons with
98 AIDS or HIV infection, and to identify what communities are being
99 served by the programs. This shall include, at a minimum,
100 periodic press releases to the printed and broadcast media, public
101 service announcements, public seminars and dissemination of
102 information to nonprofit community organizations throughout the
103 state.

104 (b) Execute contracts to evaluate the effectiveness of
105 AIDS and HIV information and education programs conducted by the
106 department.

107 (c) Conduct proposal writing workshops at strategic
108 locations throughout the state to help increase AIDS and HIV
109 services provided by nonprofit community organizations and other
110 entities.

111 (d) Conduct periodic meetings with recipients of
112 federal and state grants for AIDS and HIV education, prevention,
113 risk reduction, treatment and social support services programs in
114 the state to insure that those programs operated by the recipients
115 are efficient, effective, and equitable for all residents of the
116 state.

117 (e) Conduct, jointly with the state institutions of

118 higher learning and community-based organizations, training
119 sessions that offer AIDS and HIV education to school teachers and
120 administrators.

121 (f) Monitor state and federal AIDS- and HIV-related
122 budget and policy developments, and coordinate budget items to
123 ensure that funding for matters related to AIDS and HIV is
124 adequate and complete within the department each fiscal year.

125 (g) Develop and conduct a needs assessment of the
126 availability of supportive services for people with AIDS or
127 AIDS-related conditions. The needs assessment shall be conducted
128 in conjunction with any of the state's AIDS and HIV education
129 contractors and with any public or private agencies providing
130 services to people with AIDS or AIDS-related conditions.

131 (h) Develop and maintain an information clearinghouse
132 in the department including periodic updates or releases to inform
133 health professionals or community organizations providing services
134 to people with AIDS or AIDS-related conditions of the status of
135 current or new clinical drug trials.

136 SECTION 6. (1) The department shall develop model education
137 programs to be available to educate the public about AIDS and HIV
138 infection.

139 (2) As part of the programs, the department shall develop a
140 model educational pamphlet about methods of transmission and
141 prevention of HIV infection, about conduct or behavior that may
142 result in the transmission of HIV, and about state laws relating
143 to the transmission of HIV.

144 (3) The programs shall be scientifically accurate and
145 factually correct and designed to:

146 (a) Educate the public about methods of transmission
147 and prevention of HIV infection, and about conduct or behavior
148 that may result in the transmission of HIV;

149 (b) Educate the public about transmission risks in
150 social, employment and educational situations;

151 (c) Educate health care workers and health facility
152 employees about methods of transmission and prevention in their
153 particular workplace environments; and

154 (d) Educate the public about state laws relating to the
155 transmission of HIV.

156 SECTION 7. (1) The department shall include in the AIDS and
157 HIV education programs special components designed to reach:

158 (a) Persons with behavior conducive to HIV
159 transmission;

160 (b) Persons younger than eighteen (18) years of age;
161 and

162 (c) Racial and ethnic minority groups, particularly
163 African-Americans.

164 (2) The materials in the education programs intended for
165 persons younger than eighteen (18) years of age shall emphasize
166 sexual abstinence before marriage and fidelity in marriage as the
167 expected standard in terms of public health and the most effective
168 ways to prevent HIV infection, sexually transmitted diseases and
169 unwanted pregnancies.

170 (3) In designing education programs for racial and ethnic
171 minorities and in assisting local community organizations in
172 developing education programs for racial and ethnic minority
173 groups, the department shall ensure that the programs reflect the
174 nature and spread of HIV infection in racial and ethnic minorities
175 in this state.

176 (4) The department shall collaborate with the University of
177 Mississippi Medical Center, Jackson State University, Alcorn State
178 University, Mississippi Valley State University, Tougaloo College,
179 Rust College, Mary Holmes Community College, Hinds Community
180 College at Utica and Coahoma Community College to develop
181 education programs specifically designed for the African-American
182 population of this state that address the circumstances causing
183 HIV infection among African-Americans to be increasing at a much

184 higher rate than among other racial and ethnic groups in the
185 state. These education programs for African-Americans shall be
186 both part of the education programs for the public generally and
187 separate programs designed to reach the largest possible number of
188 African-Americans in the state.

189 SECTION 8. (1) The department shall develop and promote
190 AIDS and HIV education, prevention and risk reduction programs
191 specifically designed to address the concerns of persons with
192 physical or mental disabilities in designing those programs. The
193 department shall consult persons with disabilities or consult
194 experts in the appropriate professional disciplines.

195 (2) To the maximum extent possible, state-funded AIDS and
196 HIV education, prevention and risk reduction programs shall be
197 accessible to persons with physical disabilities.

198 SECTION 9. (1) The department shall identify the groups and
199 subgroups of persons in the state who have AIDS or are infected
200 with HIV, and determine the distinctive characteristics of those
201 groups and subgroups. The department shall determine where AIDS
202 and HIV education efforts are needed in the state, with emphasis
203 on reaching those groups and subgroups identified as having or
204 more likely to have AIDS or HIV, and shall initiate programs in
205 those areas by identifying local resources. The education
206 programs specifically designed for the African-American population
207 shall be initiated and promoted in African-American communities
208 throughout the state.

209 (2) The department shall assist communities, especially
210 those in rural areas, in establishing self-sustaining AIDS and HIV
211 education programs, using public and private resources.

212 SECTION 10. The department shall make the AIDS and HIV
213 education programs available to local governments and private
214 businesses on request.

215 SECTION 11. Each health care facility licensed by the
216 department shall require its employees to complete an educational

217 course about HIV infection based on the model education programs
218 developed by the department.

219 SECTION 12. The department shall develop model education
220 programs for instruction about the basics of AIDS and HIV, to be
221 used in school systems. The education programs shall include
222 methods of transmission and prevention of HIV infection and
223 conduct or behavior that may result in the transmission of HIV.
224 The State Board of Education shall require all public school
225 districts to include, as part of their curriculum, instruction
226 about the basics of AIDS and HIV, using the model education
227 programs developed by the department under this section.

228 SECTION 13. The department may contract with any person for
229 the design, development and distribution of AIDS and HIV education
230 programs.

231 SECTION 14. (1) The department shall:

232 (a) Maintain current information on public and private
233 sources of funding for AIDS and HIV education, prevention, risk
234 reduction, treatment and social support services; and

235 (b) Maintain information on the type, amount and
236 sources of funding for AIDS and HIV education, prevention, risk
237 reduction, treatment and social support services being provided
238 throughout the state.

239 (2) To encourage and maximize the use of federal and private
240 funds, the department shall forward the information as soon as
241 possible after receipt to public and nonprofit agencies, including
242 nonprofit community organizations, that may be eligible for
243 funding and shall make the information available to public and
244 private entities on request.

245 (3) The department may seek, accept and spend funds from
246 state, federal, local and private entities to carry out this
247 section.

248 SECTION 15. (1) The department shall provide technical
249 assistance to nonprofit community organizations to maximize the

250 use of limited resources and volunteer efforts and to expand the
251 availability of health care, education, prevention, risk reduction
252 and social support services needed to address the AIDS and HIV
253 problem.

254 (2) The department shall provide technical assistance in:

255 (a) Recruiting, training and effectively using
256 volunteers in the delivery of AIDS- and HIV-related services;

257 (b) Identifying funding opportunities and sources,
258 including information on developing sound grant proposals; and

259 (c) Developing and implementing effective service
260 delivery approaches for community-based health care, education,
261 prevention, risk reduction and social support services pertaining
262 to AIDS and HIV infection.

263 SECTION 16. Within the limit of funds appropriated by the
264 Legislature for that purpose, the department shall establish and
265 administer a state grant program to nonprofit community
266 organizations for:

267 (a) AIDS and HIV education, prevention and risk
268 reduction programs; and

269 (b) Treatment, health care and social support service
270 programs for persons with AIDS or HIV infection.

271 SECTION 17. (1) The board may adopt rules relating to:

272 (a) The services that may be furnished under the grant
273 program;

274 (b) A system of priorities regarding the types of
275 services provided, geographic areas covered or classes of
276 individuals or communities targeted for services under the grant
277 program; and

278 (c) A process for resolving conflicts between the
279 department and a program receiving money under Sections 16 through
280 28.

281 (2) Board or department actions relating to service,
282 geographic and other priorities shall be based on the set of

283 priorities and guidelines established under this section.

284 (3) In structuring the grant program and adopting rules, the
285 department and the board shall attempt to:

286 (a) Coordinate the use of federal, local and private
287 funds;

288 (b) Encourage the provision of community-based
289 services;

290 (c) Address needs that are not met by other sources of
291 funding;

292 (d) Provide funding as extensively as possible across
293 the regions of the state in amounts that reflect regional needs;
294 and

295 (e) Encourage cooperation among local service
296 providers.

297 SECTION 18. (1) To prevent unnecessary duplication of
298 services, the board and the department shall seek to coordinate
299 the services provided by eligible programs under Sections 16
300 through 28 with existing federal, state and local programs.

301 (2) The department shall consult with the Department of
302 Human Services to ensure that programs funded under Sections 16
303 through 28 complement and do not unnecessarily duplicate services
304 provided through the Department of Human Services.

305 SECTION 19. (1) The department shall establish application
306 procedures and eligibility guidelines for the state grants under
307 Sections 16 through 28.

308 (2) Application procedures shall include regional public
309 hearings after reasonable notice in the region in which the
310 community organization is based before awarding an initial grant
311 or grants totaling more than Twenty-five Thousand Dollars
312 (\$25,000.00) annually.

313 SECTION 20. An applicant for a state grant under Sections 16
314 through 28 shall submit to the department for approval:

315 (a) A description of the objectives established by the

316 applicant for the conduct of the program;

317 (b) A description of the methods the applicant will use
318 to evaluate the activities conducted under the program to
319 determine if the objectives are met; and

320 (c) Any other information requested by the department.

321 SECTION 21. (1) In awarding grants for education,
322 prevention and risk reduction programs under Sections 16 through
323 28, the department shall give special consideration to nonprofit
324 community organizations whose primary purpose is serving persons
325 younger than eighteen (18) years of age.

326 (2) In awarding grants for treatment, health care and social
327 support services, the department shall endeavor to distribute
328 grants in a manner that prevents unnecessary duplication of
329 services within a community.

330 (3) In awarding grants for education, prevention and risk
331 reduction programs, the department shall endeavor to complement
332 existing education programs in a community, to prevent unnecessary
333 duplication of services within a community, to provide AIDS and
334 HIV education programs for populations engaging in behaviors
335 conducive to HIV transmission, to initiate needed AIDS and HIV
336 education programs where none exist, and to promote early
337 intervention and treatment of persons with HIV infection.

338 SECTION 22. The department may not use more than five
339 percent (5%) of the funds appropriated for the grant program to
340 employ sufficient staff to review and process grant applications,
341 monitor and evaluate the effectiveness of funded programs and
342 provide technical assistance to grantees.

343 SECTION 23. (1) A program funded with a grant under
344 Sections 16 through 28 shall provide information and educational
345 materials that are accurate, comprehensive and consistent with
346 current findings of the United States Public Health Service.

347 (2) Information and educational materials developed with a
348 grant awarded under Sections 16 through 28 must contain materials

349 and be presented in a manner that is specifically directed to the
350 group for which the materials are intended.

351 SECTION 24. (1) The department shall develop evaluation
352 criteria to document effectiveness, unit-of-service costs and
353 number of volunteers used in programs funded with grants under
354 Sections 16 through 28.

355 (2) An organization that receives funding under the program
356 shall:

357 (a) Collect and maintain relevant data as required by
358 the department; and

359 (b) Submit to the department copies of all material the
360 organization has printed or distributed relating to AIDS and HIV
361 infection.

362 (3) The department shall provide prompt assistance to
363 grantees in obtaining materials and skills necessary to collect
364 and report the data required under this section.

365 SECTION 25. (1) The department shall require each program
366 receiving a grant under Sections 16 through 28 to maintain records
367 and information specified by the department.

368 (2) The board may adopt rules relating to the information a
369 program is required to report to the department and shall adopt
370 procedures and forms for reporting the information to prevent
371 unnecessary and duplicative reporting of data.

372 (3) The department shall review records, information and
373 reports prepared by programs funded under Sections 16 through 28.
374 Before December 1 of each year, the department shall prepare a
375 report that is available to the public and that summarizes data
376 regarding the type, level, quality and cost-effectiveness of
377 services provided under Sections 16 through 28.

378 SECTION 26. (1) The department shall biannually review the
379 financial records of a program funded with a grant under Sections
380 16 through 28.

381 (2) As a condition of accepting a grant under Sections 16

382 through 28, a community organization must allow the department to
383 biannually review the financial records of that organization.

384 SECTION 27. The department may provide a due process hearing
385 procedure for the resolution of conflicts between the department
386 and a program funded with a state grant under Sections 16 through
387 28.

388 SECTION 28. The board may appoint an advisory committee to
389 assist in the development of procedures and guidelines required by
390 Sections 16 through 28.

391 SECTION 29. (1) Each state agency annually shall provide to
392 each of its employees an educational pamphlet about:

393 (a) Methods of transmission and prevention of HIV
394 infection, and conduct or behavior that may result in the
395 transmission of HIV; and

396 (b) State laws relating to the transmission of HIV.

397 (2) The educational pamphlet shall be based on the model
398 developed by the department, and shall be provided to each newly
399 hired state employee on the first day of employment.

400 (3) The department shall prepare and distribute to each
401 state agency a model informational pamphlet that can be reproduced
402 by each state agency to meet the requirements of this section.

403 SECTION 30. (1) Each state agency listed in subsection (3)
404 shall routinely make available AIDS and HIV education for clients,
405 inmates, patients and residents of treatment, educational,
406 correctional or residential facilities under the agency's
407 jurisdiction.

408 (2) Education available under this section shall be based on
409 the model education program developed by the department and
410 tailored to the cultural, educational, language and developmental
411 needs of the clients, inmates, patients or residents, including
412 the use of Braille or telecommunication devices for the deaf.

413 (3) This section shall apply to the following state
414 agencies:

- 415 (a) The Mississippi School for the Blind;
416 (b) The Mississippi School for the Deaf;
417 (c) The Department of Corrections;
418 (d) The State Department of Health;
419 (e) The Department of Human Services;
420 (f) The State Department of Mental Health; and
421 (g) The State Department of Rehabilitation Services.

422 SECTION 31. State-funded primary health, women's
423 reproductive health and sexually transmitted disease clinics shall
424 make available to patients and clients information and educational
425 materials concerning the prevention of HIV infection. Such
426 information and materials shall be routinely incorporated into
427 patient education and counseling in clinics specializing in
428 sexually transmitted diseases and women's reproductive health.

429 SECTION 32. The department may pay the costs, including
430 reimbursements to contractors for administrative costs, of
431 providing home- and community-based services to persons with a
432 diagnosis of AIDS who are not eligible for Medicaid, when
433 sufficient state funds are appropriated for that purpose.

434 SECTION 33. The department shall expand the coverage of the
435 AIDS Drug Assistance Program to the extent that sufficient state
436 funds are appropriated for that purpose. State funds for the AIDS
437 Drug Assistance Program shall be used to supplement the funds that
438 the state receives from the federal government under the CARE
439 Grant Program (42 USCS Section 300ff-21 et seq.) of the Ryan White
440 Comprehensive AIDS Resources Emergency (CARE) Act (Public Law
441 101-381), as amended, and those state funds shall be designated as
442 Mississippi Ryan White Supplemental Funds. The department shall
443 expend Mississippi Ryan White Supplemental Funds exclusively for
444 medications to treat HIV disease or prevent the serious
445 deterioration of health arising from HIV in eligible individuals
446 under the federal CARE Grant Program.

447 SECTION 34. The University of Mississippi Medical Center

448 shall conduct clinical trials for the treatment of persons who
449 have AIDS and persons with HIV infection.

450 SECTION 35. (1) The department may contract with an entity
451 to provide the services required by this act if the contract would
452 minimize duplication of effort and would deliver services
453 cost-effectively.

454 (2) The department may audit an entity contracting with the
455 department under subsection (1).

456 (3) A contract entered into by the department under this
457 section may not be for a term of more than one (1) year.

458 (4) The department may seek, accept and spend funds from
459 state, federal, local and private entities to carry out this
460 section.

461 SECTION 36. Section 43-13-117, Mississippi Code of 1972, is
462 amended as follows:[RF1]

463 43-13-117. Medical assistance as authorized by this article
464 shall include payment of part or all of the costs, at the
465 discretion of the division or its successor, with approval of the
466 Governor, of the following types of care and services rendered to
467 eligible applicants who shall have been determined to be eligible
468 for such care and services, within the limits of state
469 appropriations and federal matching funds:

470 (1) Inpatient hospital services.

471 (a) The division shall allow thirty (30) days of
472 inpatient hospital care annually for all Medicaid recipients;
473 however, before any recipient will be allowed more than fifteen
474 (15) days of inpatient hospital care in any one (1) year, he must
475 obtain prior approval therefor from the division. The division
476 shall be authorized to allow unlimited days in disproportionate
477 hospitals as defined by the division for eligible infants under
478 the age of six (6) years.

479 (b) From and after July 1, 1994, the Executive Director
480 of the Division of Medicaid shall amend the Mississippi Title XIX

481 Inpatient Hospital Reimbursement Plan to remove the occupancy rate
482 penalty from the calculation of the Medicaid Capital Cost
483 Component utilized to determine total hospital costs allocated to
484 the Medicaid program.

485 (2) Outpatient hospital services. Provided that where the
486 same services are reimbursed as clinic services, the division may
487 revise the rate or methodology of outpatient reimbursement to
488 maintain consistency, efficiency, economy and quality of care.

489 (3) Laboratory and x-ray services.

490 (4) Nursing facility services.

491 (a) The division shall make full payment to nursing
492 facilities for each day, not exceeding fifty-two (52) days per
493 year, that a patient is absent from the facility on home leave.
494 Payment may be made for the following home leave days in addition
495 to the fifty-two-day limitation: Christmas, the day before
496 Christmas, the day after Christmas, Thanksgiving, the day before
497 Thanksgiving and the day after Thanksgiving. However, before
498 payment may be made for more than eighteen (18) home leave days in
499 a year for a patient, the patient must have written authorization
500 from a physician stating that the patient is physically and
501 mentally able to be away from the facility on home leave. Such
502 authorization must be filed with the division before it will be
503 effective and the authorization shall be effective for three (3)
504 months from the date it is received by the division, unless it is
505 revoked earlier by the physician because of a change in the
506 condition of the patient.

507 (b) From and after July 1, 1993, the division shall
508 implement the integrated case-mix payment and quality monitoring
509 system developed pursuant to Section 43-13-122, which includes the
510 fair rental system for property costs and in which recapture of
511 depreciation is eliminated. The division may revise the
512 reimbursement methodology for the case-mix payment system by
513 reducing payment for hospital leave and therapeutic home leave

514 days to the lowest case-mix category for nursing facilities,
515 modifying the current method of scoring residents so that only
516 services provided at the nursing facility are considered in
517 calculating a facility's per diem, and the division may limit
518 administrative and operating costs, but in no case shall these
519 costs be less than one hundred nine percent (109%) of the median
520 administrative and operating costs for each class of facility, not
521 to exceed the median used to calculate the nursing facility
522 reimbursement for fiscal year 1996, to be applied uniformly to all
523 long-term care facilities.

524 (c) From and after July 1, 1997, all state-owned
525 nursing facilities shall be reimbursed on a full reasonable costs
526 basis. From and after July 1, 1997, payments by the division to
527 nursing facilities for return on equity capital shall be made at
528 the rate paid under Medicare (Title XVIII of the Social Security
529 Act), but shall be no less than seven and one-half percent (7.5%)
530 nor greater than ten percent (10%).

531 (d) A Review Board for nursing facilities is
532 established to conduct reviews of the Division of Medicaid's
533 decision in the areas set forth below:

534 (i) Review shall be heard in the following areas:

535 (A) Matters relating to cost reports

536 including, but not limited to, allowable costs and cost
537 adjustments resulting from desk reviews and audits.

538 (B) Matters relating to the Minimum Data Set
539 Plus (MDS +) or successor assessment formats including but not
540 limited to audits, classifications and submissions.

541 (ii) The Review Board shall be composed of six (6)
542 members, three (3) having expertise in one (1) of the two (2)
543 areas set forth above and three (3) having expertise in the other
544 area set forth above. Each panel of three (3) shall only review
545 appeals arising in its area of expertise. The members shall be
546 appointed as follows:

547 (A) In each of the areas of expertise defined
548 under subparagraphs (i) (A) and (i) (B), the Executive Director of
549 the Division of Medicaid shall appoint one (1) person chosen from
550 the private sector nursing home industry in the state, which may
551 include independent accountants and consultants serving the
552 industry;

553 (B) In each of the areas of expertise defined
554 under subparagraphs (i) (A) and (i) (B), the Executive Director of
555 the Division of Medicaid shall appoint one (1) person who is
556 employed by the state who does not participate directly in desk
557 reviews or audits of nursing facilities in the two (2) areas of
558 review;

559 (C) The two (2) members appointed by the
560 Executive Director of the Division of Medicaid in each area of
561 expertise shall appoint a third member in the same area of
562 expertise.

563 In the event of a conflict of interest on the part of any
564 Review Board members, the Executive Director of the Division of
565 Medicaid or the other two (2) panel members, as applicable, shall
566 appoint a substitute member for conducting a specific review.

567 (iii) The Review Board panels shall have the power
568 to preserve and enforce order during hearings; to issue subpoenas;
569 to administer oaths; to compel attendance and testimony of
570 witnesses; or to compel the production of books, papers, documents
571 and other evidence; or the taking of depositions before any
572 designated individual competent to administer oaths; to examine
573 witnesses; and to do all things conformable to law that may be
574 necessary to enable it effectively to discharge its duties. The
575 Review Board panels may appoint such person or persons as they
576 shall deem proper to execute and return process in connection
577 therewith.

578 (iv) The Review Board shall promulgate, publish
579 and disseminate to nursing facility providers rules of procedure

580 for the efficient conduct of proceedings, subject to the approval
581 of the Executive Director of the Division of Medicaid and in
582 accordance with federal and state administrative hearing laws and
583 regulations.

584 (v) Proceedings of the Review Board shall be of
585 record.

586 (vi) Appeals to the Review Board shall be in
587 writing and shall set out the issues, a statement of alleged facts
588 and reasons supporting the provider's position. Relevant
589 documents may also be attached. The appeal shall be filed within
590 thirty (30) days from the date the provider is notified of the
591 action being appealed or, if informal review procedures are taken,
592 as provided by administrative regulations of the Division of
593 Medicaid, within thirty (30) days after a decision has been
594 rendered through informal hearing procedures.

595 (vii) The provider shall be notified of the
596 hearing date by certified mail within thirty (30) days from the
597 date the Division of Medicaid receives the request for appeal.
598 Notification of the hearing date shall in no event be less than
599 thirty (30) days before the scheduled hearing date. The appeal
600 may be heard on shorter notice by written agreement between the
601 provider and the Division of Medicaid.

602 (viii) Within thirty (30) days from the date of
603 the hearing, the Review Board panel shall render a written
604 recommendation to the Executive Director of the Division of
605 Medicaid setting forth the issues, findings of fact and applicable
606 law, regulations or provisions.

607 (ix) The Executive Director of the Division of
608 Medicaid shall, upon review of the recommendation, the proceedings
609 and the record, prepare a written decision which shall be mailed
610 to the nursing facility provider no later than twenty (20) days
611 after the submission of the recommendation by the panel. The
612 decision of the executive director is final, subject only to

613 judicial review.

614 (x) Appeals from a final decision shall be made to
615 the Chancery Court of Hinds County. The appeal shall be filed
616 with the court within thirty (30) days from the date the decision
617 of the Executive Director of the Division of Medicaid becomes
618 final.

619 (xi) The action of the Division of Medicaid under
620 review shall be stayed until all administrative proceedings have
621 been exhausted.

622 (xii) Appeals by nursing facility providers
623 involving any issues other than those two (2) specified in
624 subparagraphs (i) (A) and (i) (B) shall be taken in accordance
625 with the administrative hearing procedures established by the
626 Division of Medicaid.

627 (e) When a facility of a category that does not require
628 a certificate of need for construction and that could not be
629 eligible for Medicaid reimbursement is constructed to nursing
630 facility specifications for licensure and certification, and the
631 facility is subsequently converted to a nursing facility pursuant
632 to a certificate of need that authorizes conversion only and the
633 applicant for the certificate of need was assessed an application
634 review fee based on capital expenditures incurred in constructing
635 the facility, the division shall allow reimbursement for capital
636 expenditures necessary for construction of the facility that were
637 incurred within the twenty-four (24) consecutive calendar months
638 immediately preceding the date that the certificate of need
639 authorizing such conversion was issued, to the same extent that
640 reimbursement would be allowed for construction of a new nursing
641 facility pursuant to a certificate of need that authorizes such
642 construction. The reimbursement authorized in this subparagraph
643 (e) may be made only to facilities the construction of which was
644 completed after June 30, 1989. Before the division shall be
645 authorized to make the reimbursement authorized in this

646 subparagraph (e), the division first must have received approval
647 from the Health Care Financing Administration of the United States
648 Department of Health and Human Services of the change in the state
649 Medicaid plan providing for such reimbursement.

650 (f) The division shall develop and implement a case-mix
651 payment add-on determined by time studies and other valid
652 statistical data which will reimburse a nursing facility for the
653 additional cost of caring for a resident who has a diagnosis of
654 Alzheimer's or other related dementia and exhibits symptoms that
655 require special care. Any such case-mix add-on payment shall be
656 supported by a determination of additional cost. The division
657 shall also develop and implement as part of the fair rental
658 reimbursement system for nursing facility beds, an Alzheimer's
659 resident bed depreciation enhanced reimbursement system which will
660 provide an incentive to encourage nursing facilities to convert or
661 construct beds for residents with Alzheimer's or other related
662 dementia.

663 (g) The Division of Medicaid shall develop and
664 implement a referral process for long-term care alternatives for
665 Medicaid beneficiaries and applicants. No Medicaid beneficiary
666 shall be admitted to a Medicaid-certified nursing facility unless
667 a licensed physician certifies that nursing facility care is
668 appropriate for that person on a standardized form to be prepared
669 and provided to nursing facilities by the Division of Medicaid.
670 The physician shall forward a copy of that certification to the
671 Division of Medicaid within twenty-four (24) hours after it is
672 signed by the physician. Any physician who fails to forward the
673 certification to the Division of Medicaid within the time period
674 specified in this paragraph shall be ineligible for Medicaid
675 reimbursement for any physician's services performed for the
676 applicant. The Division of Medicaid shall determine, through an
677 assessment of the applicant conducted within two (2) business days
678 after receipt of the physician's certification, whether the

679 applicant also could live appropriately and cost-effectively at
680 home or in some other community-based setting if home- or
681 community-based services were available to the applicant. The
682 time limitation prescribed in this paragraph shall be waived in
683 cases of emergency. If the Division of Medicaid determines that a
684 home- or other community-based setting is appropriate and
685 cost-effective, the division shall:

686 (i) Advise the applicant or the applicant's legal
687 representative that a home- or other community-based setting is
688 appropriate;

689 (ii) Provide a proposed care plan and inform the
690 applicant or the applicant's legal representative regarding the
691 degree to which the services in the care plan are available in a
692 home- or in other community-based setting rather than nursing
693 facility care; and

694 (iii) Explain that such plan and services are
695 available only if the applicant or the applicant's legal
696 representative chooses a home- or community-based alternative to
697 nursing facility care, and that the applicant is free to choose
698 nursing facility care.

699 The Division of Medicaid may provide the services described
700 in this paragraph (g) directly or through contract with case
701 managers from the local Area Agencies on Aging, and shall
702 coordinate long-term care alternatives to avoid duplication with
703 hospital discharge planning procedures.

704 Placement in a nursing facility may not be denied by the
705 division if home- or community-based services that would be more
706 appropriate than nursing facility care are not actually available,
707 or if the applicant chooses not to receive the appropriate home-
708 or community-based services.

709 The division shall provide an opportunity for a fair hearing
710 under federal regulations to any applicant who is not given the
711 choice of home- or community-based services as an alternative to

712 institutional care.

713 The division shall make full payment for long-term care
714 alternative services.

715 The division shall apply for necessary federal waivers to
716 assure that additional services providing alternatives to nursing
717 facility care are made available to applicants for nursing
718 facility care.

719 (5) Periodic screening and diagnostic services for
720 individuals under age twenty-one (21) years as are needed to
721 identify physical and mental defects and to provide health care
722 treatment and other measures designed to correct or ameliorate
723 defects and physical and mental illness and conditions discovered
724 by the screening services regardless of whether these services are
725 included in the state plan. The division may include in its
726 periodic screening and diagnostic program those discretionary
727 services authorized under the federal regulations adopted to
728 implement Title XIX of the federal Social Security Act, as
729 amended. The division, in obtaining physical therapy services,
730 occupational therapy services, and services for individuals with
731 speech, hearing and language disorders, may enter into a
732 cooperative agreement with the State Department of Education for
733 the provision of such services to handicapped students by public
734 school districts using state funds which are provided from the
735 appropriation to the Department of Education to obtain federal
736 matching funds through the division. The division, in obtaining
737 medical and psychological evaluations for children in the custody
738 of the State Department of Human Services may enter into a
739 cooperative agreement with the State Department of Human Services
740 for the provision of such services using state funds which are
741 provided from the appropriation to the Department of Human
742 Services to obtain federal matching funds through the division.

743 On July 1, 1993, all fees for periodic screening and
744 diagnostic services under this paragraph (5) shall be increased by

745 twenty-five percent (25%) of the reimbursement rate in effect on
746 June 30, 1993.

747 (6) Physician's services. All fees for physicians' services
748 that are covered only by Medicaid shall be reimbursed at ninety
749 percent (90%) of the rate established on January 1, 1999, and as
750 adjusted each January thereafter, under Medicare (Title XVIII of
751 the Social Security Act), as amended, and which shall in no event
752 be less than seventy percent (70%) of the rate established on
753 January 1, 1994. All fees for physicians' services that are
754 covered by both Medicare and Medicaid shall be reimbursed at ten
755 percent (10%) of the adjusted Medicare payment established on
756 January 1, 1999, and as adjusted each January thereafter, under
757 Medicare (Title XVIII of the Social Security Act), as amended, and
758 which shall in no event be less than seven percent (7%) of the
759 adjusted Medicare payment established on January 1, 1994.

760 (7) (a) Home health services for eligible persons, not to
761 exceed in cost the prevailing cost of nursing facility services,
762 not to exceed sixty (60) visits per year.

763 (b) Repealed.

764 (8) Emergency medical transportation services. On January
765 1, 1994, emergency medical transportation services shall be
766 reimbursed at seventy percent (70%) of the rate established under
767 Medicare (Title XVIII of the Social Security Act), as amended.
768 "Emergency medical transportation services" shall mean, but shall
769 not be limited to, the following services by a properly permitted
770 ambulance operated by a properly licensed provider in accordance
771 with the Emergency Medical Services Act of 1974 (Section 41-59-1
772 et seq.): (i) basic life support, (ii) advanced life support,
773 (iii) mileage, (iv) oxygen, (v) intravenous fluids, (vi)
774 disposable supplies, (vii) similar services.

775 (9) Legend and other drugs as may be determined by the
776 division. The division may implement a program of prior approval
777 for drugs to the extent permitted by law. Payment by the division

778 for covered multiple source drugs shall be limited to the lower of
779 the upper limits established and published by the Health Care
780 Financing Administration (HCFA) plus a dispensing fee of Four
781 Dollars and Ninety-one Cents (\$4.91), or the estimated acquisition
782 cost (EAC) as determined by the division plus a dispensing fee of
783 Four Dollars and Ninety-one Cents (\$4.91), or the providers' usual
784 and customary charge to the general public. The division shall
785 allow five (5) prescriptions per month for noninstitutionalized
786 Medicaid recipients; however, exceptions for up to ten (10)
787 prescriptions per month shall be allowed, with the approval of the
788 director.

789 Payment for other covered drugs, other than multiple source
790 drugs with HCFA upper limits, shall not exceed the lower of the
791 estimated acquisition cost as determined by the division plus a
792 dispensing fee of Four Dollars and Ninety-one Cents (\$4.91) or the
793 providers' usual and customary charge to the general public.

794 Payment for nonlegend or over-the-counter drugs covered on
795 the division's formulary shall be reimbursed at the lower of the
796 division's estimated shelf price or the providers' usual and
797 customary charge to the general public. No dispensing fee shall
798 be paid.

799 The division shall develop and implement a program of payment
800 for additional pharmacist services, with payment to be based on
801 demonstrated savings, but in no case shall the total payment
802 exceed twice the amount of the dispensing fee.

803 As used in this paragraph (9), "estimated acquisition cost"
804 means the division's best estimate of what price providers
805 generally are paying for a drug in the package size that providers
806 buy most frequently. Product selection shall be made in
807 compliance with existing state law; however, the division may
808 reimburse as if the prescription had been filled under the generic
809 name. The division may provide otherwise in the case of specified
810 drugs when the consensus of competent medical advice is that

811 trademarked drugs are substantially more effective.

812 (10) Dental care that is an adjunct to treatment of an acute
813 medical or surgical condition; services of oral surgeons and
814 dentists in connection with surgery related to the jaw or any
815 structure contiguous to the jaw or the reduction of any fracture
816 of the jaw or any facial bone; and emergency dental extractions
817 and treatment related thereto. On July 1, 1999, all fees for
818 dental care and surgery under authority of this paragraph (10)
819 shall be increased to one hundred sixty percent (160%) of the
820 amount of the reimbursement rate that was in effect on June 30,
821 1999. It is the intent of the Legislature to encourage more
822 dentists to participate in the Medicaid program.

823 (11) Eyeglasses necessitated by reason of eye surgery, and
824 as prescribed by a physician skilled in diseases of the eye or an
825 optometrist, whichever the patient may select.

826 (12) Intermediate care facility services.

827 (a) The division shall make full payment to all
828 intermediate care facilities for the mentally retarded for each
829 day, not exceeding eighty-four (84) days per year, that a patient
830 is absent from the facility on home leave. Payment may be made
831 for the following home leave days in addition to the eighty-
832 four-day limitation: Christmas, the day before Christmas, the day
833 after Christmas, Thanksgiving, the day before Thanksgiving and the
834 day after Thanksgiving. However, before payment may be made for
835 more than eighteen (18) home leave days in a year for a patient,
836 the patient must have written authorization from a physician
837 stating that the patient is physically and mentally able to be
838 away from the facility on home leave. Such authorization must be
839 filed with the division before it will be effective, and the
840 authorization shall be effective for three (3) months from the
841 date it is received by the division, unless it is revoked earlier
842 by the physician because of a change in the condition of the
843 patient.

844 (b) All state-owned intermediate care facilities for
845 the mentally retarded shall be reimbursed on a full reasonable
846 cost basis.

847 (13) Family planning services, including drugs, supplies and
848 devices, when such services are under the supervision of a
849 physician.

850 (14) Clinic services. Such diagnostic, preventive,
851 therapeutic, rehabilitative or palliative services furnished to an
852 outpatient by or under the supervision of a physician or dentist
853 in a facility which is not a part of a hospital but which is
854 organized and operated to provide medical care to outpatients.
855 Clinic services shall include any services reimbursed as
856 outpatient hospital services which may be rendered in such a
857 facility, including those that become so after July 1, 1991. On
858 July 1, 1999, all fees for physicians' services reimbursed under
859 authority of this paragraph (14) shall be reimbursed at ninety
860 percent (90%) of the rate established on January 1, 1999, and as
861 adjusted each January thereafter, under Medicare (Title XVIII of
862 the Social Security Act), as amended, and which shall in no event
863 be less than seventy percent (70%) of the rate established on
864 January 1, 1994. All fees for physicians' services that are
865 covered by both Medicare and Medicaid shall be reimbursed at ten
866 percent (10%) of the adjusted Medicare payment established on
867 January 1, 1999, and as adjusted each January thereafter, under
868 Medicare (Title XVIII of the Social Security Act), as amended, and
869 which shall in no event be less than seven percent (7%) of the
870 adjusted Medicare payment established on January 1, 1994. On July
871 1, 1999, all fees for dentists' services reimbursed under
872 authority of this paragraph (14) shall be increased to one hundred
873 sixty percent (160%) of the amount of the reimbursement rate that
874 was in effect on June 30, 1999.

875 (15) Home- and community-based services, as provided under
876 Title XIX of the federal Social Security Act, as amended, under

877 waivers, subject to the availability of funds specifically
878 appropriated therefor by the Legislature. Payment for such
879 services shall be limited to individuals who would be eligible for
880 and would otherwise require the level of care provided in a
881 nursing facility. The home- and community-based services
882 authorized under this paragraph shall be expanded over a five-year
883 period beginning July 1, 1999. The division shall certify case
884 management agencies to provide case management services and
885 provide for home- and community-based services for eligible
886 individuals under this paragraph. The home- and community-based
887 services under this paragraph and the activities performed by
888 certified case management agencies under this paragraph shall be
889 funded using state funds that are provided from the appropriation
890 to the Division of Medicaid and used to match federal funds.

891 (16) Mental health services. Approved therapeutic and case
892 management services provided by (a) an approved regional mental
893 health/retardation center established under Sections 41-19-31
894 through 41-19-39, or by another community mental health service
895 provider meeting the requirements of the Department of Mental
896 Health to be an approved mental health/retardation center if
897 determined necessary by the Department of Mental Health, using
898 state funds which are provided from the appropriation to the State
899 Department of Mental Health and used to match federal funds under
900 a cooperative agreement between the division and the department,
901 or (b) a facility which is certified by the State Department of
902 Mental Health to provide therapeutic and case management services,
903 to be reimbursed on a fee for service basis. Any such services
904 provided by a facility described in paragraph (b) must have the
905 prior approval of the division to be reimbursable under this
906 section. After June 30, 1997, mental health services provided by
907 regional mental health/retardation centers established under
908 Sections 41-19-31 through 41-19-39, or by hospitals as defined in
909 Section 41-9-3(a) and/or their subsidiaries and divisions, or by

910 psychiatric residential treatment facilities as defined in Section
911 43-11-1, or by another community mental health service provider
912 meeting the requirements of the Department of Mental Health to be
913 an approved mental health/retardation center if determined
914 necessary by the Department of Mental Health, shall not be
915 included in or provided under any capitated managed care pilot
916 program provided for under paragraph (24) of this section.

917 (17) Durable medical equipment services and medical supplies
918 restricted to patients receiving home health services unless
919 waived on an individual basis by the division. The division shall
920 not expend more than Three Hundred Thousand Dollars (\$300,000.00)
921 of state funds annually to pay for medical supplies authorized
922 under this paragraph.

923 (18) Notwithstanding any other provision of this section to
924 the contrary, the division shall make additional reimbursement to
925 hospitals which serve a disproportionate share of low-income
926 patients and which meet the federal requirements for such payments
927 as provided in Section 1923 of the federal Social Security Act and
928 any applicable regulations.

929 (19) (a) Perinatal risk management services. The division
930 shall promulgate regulations to be effective from and after
931 October 1, 1988, to establish a comprehensive perinatal system for
932 risk assessment of all pregnant and infant Medicaid recipients and
933 for management, education and follow-up for those who are
934 determined to be at risk. Services to be performed include case
935 management, nutrition assessment/counseling, psychosocial
936 assessment/counseling and health education. The division shall
937 set reimbursement rates for providers in conjunction with the
938 State Department of Health.

939 (b) Early intervention system services. The division
940 shall cooperate with the State Department of Health, acting as
941 lead agency, in the development and implementation of a statewide
942 system of delivery of early intervention services, pursuant to

943 Part H of the Individuals with Disabilities Education Act (IDEA).

944 The State Department of Health shall certify annually in writing
945 to the director of the division the dollar amount of state early
946 intervention funds available which shall be utilized as a
947 certified match for Medicaid matching funds. Those funds then
948 shall be used to provide expanded targeted case management
949 services for Medicaid eligible children with special needs who are
950 eligible for the state's early intervention system.

951 Qualifications for persons providing service coordination shall be
952 determined by the State Department of Health and the Division of
953 Medicaid.

954 (20) Home- and community-based services for physically
955 disabled approved services as allowed by a waiver from the United
956 States Department of Health and Human Services for home- and
957 community-based services for physically disabled people using
958 state funds which are provided from the appropriation to the State
959 Department of Rehabilitation Services and used to match federal
960 funds under a cooperative agreement between the division and the
961 department, provided that funds for these services are
962 specifically appropriated to the Department of Rehabilitation
963 Services.

964 (21) Nurse practitioner services. Services furnished by a
965 registered nurse who is licensed and certified by the Mississippi
966 Board of Nursing as a nurse practitioner including, but not
967 limited to, nurse anesthetists, nurse midwives, family nurse
968 practitioners, family planning nurse practitioners, pediatric
969 nurse practitioners, obstetrics-gynecology nurse practitioners and
970 neonatal nurse practitioners, under regulations adopted by the
971 division. Reimbursement for such services shall not exceed ninety
972 percent (90%) of the reimbursement rate for comparable services
973 rendered by a physician.

974 (22) Ambulatory services delivered in federally qualified
975 health centers and in clinics of the local health departments of

976 the State Department of Health for individuals eligible for
977 medical assistance under this article based on reasonable costs as
978 determined by the division.

979 (23) Inpatient psychiatric services. Inpatient psychiatric
980 services to be determined by the division for recipients under age
981 twenty-one (21) which are provided under the direction of a
982 physician in an inpatient program in a licensed acute care
983 psychiatric facility or in a licensed psychiatric residential
984 treatment facility, before the recipient reaches age twenty-one
985 (21) or, if the recipient was receiving the services immediately
986 before he reached age twenty-one (21), before the earlier of the
987 date he no longer requires the services or the date he reaches age
988 twenty-two (22), as provided by federal regulations. Recipients
989 shall be allowed forty-five (45) days per year of psychiatric
990 services provided in acute care psychiatric facilities, and shall
991 be allowed unlimited days of psychiatric services provided in
992 licensed psychiatric residential treatment facilities.

993 (24) Managed care services in a program to be developed by
994 the division by a public or private provider. Notwithstanding any
995 other provision in this article to the contrary, the division
996 shall establish rates of reimbursement to providers rendering care
997 and services authorized under this section, and may revise such
998 rates of reimbursement without amendment to this section by the
999 Legislature for the purpose of achieving effective and accessible
1000 health services, and for responsible containment of costs. This
1001 shall include, but not be limited to, one (1) module of capitated
1002 managed care in a rural area, and one (1) module of capitated
1003 managed care in an urban area.

1004 (25) Birthing center services.

1005 (26) Hospice care, including hospice care for patients who
1006 have acquired immune deficiency syndrome (AIDS). As used in this
1007 paragraph, the term "hospice care" means a coordinated program of
1008 active professional medical attention within the home and

1009 outpatient and inpatient care which treats the terminally ill
1010 patient and family as a unit, employing a medically directed
1011 interdisciplinary team. The program provides relief of severe
1012 pain or other physical symptoms and supportive care to meet the
1013 special needs arising out of physical, psychological, spiritual,
1014 social and economic stresses which are experienced during the
1015 final stages of illness and during dying and bereavement and meets
1016 the Medicare requirements for participation as a hospice as
1017 provided in 42 CFR Part 418.

1018 (27) Group health plan premiums and cost sharing if it is
1019 cost effective as defined by the Secretary of Health and Human
1020 Services.

1021 (28) Other health insurance premiums which are cost
1022 effective as defined by the Secretary of Health and Human
1023 Services. Medicare eligible must have Medicare Part B before
1024 other insurance premiums can be paid.

1025 (29) The Division of Medicaid may apply for a waiver from
1026 the Department of Health and Human Services for home- and
1027 community-based services for developmentally disabled people using
1028 state funds which are provided from the appropriation to the State
1029 Department of Mental Health and used to match federal funds under
1030 a cooperative agreement between the division and the department,
1031 provided that funds for these services are specifically
1032 appropriated to the Department of Mental Health.

1033 (30) Pediatric skilled nursing services for eligible persons
1034 under twenty-one (21) years of age.

1035 (31) Targeted case management services for children with
1036 special needs, under waivers from the United States Department of
1037 Health and Human Services, using state funds that are provided
1038 from the appropriation to the Mississippi Department of Human
1039 Services and used to match federal funds under a cooperative
1040 agreement between the division and the department.

1041 (32) Care and services provided in Christian Science

1042 Sanatoria operated by or listed and certified by The First Church
1043 of Christ Scientist, Boston, Massachusetts, rendered in connection
1044 with treatment by prayer or spiritual means to the extent that
1045 such services are subject to reimbursement under Section 1903 of
1046 the Social Security Act.

1047 (33) Podiatrist services.

1048 (34) Personal care services provided in a pilot program to
1049 not more than forty (40) residents at a location or locations to
1050 be determined by the division and delivered by individuals
1051 qualified to provide such services, as allowed by waivers under
1052 Title XIX of the Social Security Act, as amended. The division
1053 shall not expend more than Three Hundred Thousand Dollars
1054 (\$300,000.00) annually to provide such personal care services.
1055 The division shall develop recommendations for the effective
1056 regulation of any facilities that would provide personal care
1057 services which may become eligible for Medicaid reimbursement
1058 under this section, and shall present such recommendations with
1059 any proposed legislation to the 1996 Regular Session of the
1060 Legislature on or before January 1, 1996.

1061 (35) Services and activities authorized in Sections
1062 43-27-101 and 43-27-103, using state funds that are provided from
1063 the appropriation to the State Department of Human Services and
1064 used to match federal funds under a cooperative agreement between
1065 the division and the department.

1066 (36) Nonemergency transportation services for
1067 Medicaid-eligible persons, to be provided by the Department of
1068 Human Services. The division may contract with additional
1069 entities to administer nonemergency transportation services as it
1070 deems necessary. All providers shall have a valid driver's
1071 license, vehicle inspection sticker and a standard liability
1072 insurance policy covering the vehicle.

1073 (37) Targeted case management services for individuals with
1074 chronic diseases, with expanded eligibility to cover services to

1075 uninsured recipients, on a pilot program basis. This paragraph
1076 (37) shall be contingent upon continued receipt of special funds
1077 from the Health Care Financing Authority and private foundations
1078 who have granted funds for planning these services. No funding
1079 for these services shall be provided from state general funds.

1080 (38) Chiropractic services: a chiropractor's manual
1081 manipulation of the spine to correct a subluxation, if x-ray
1082 demonstrates that a subluxation exists and if the subluxation has
1083 resulted in a neuromusculoskeletal condition for which
1084 manipulation is appropriate treatment. Reimbursement for
1085 chiropractic services shall not exceed Seven Hundred Dollars
1086 (\$700.00) per year per recipient.

1087 (39) Subject to the availability of federal financial
1088 participation and subject to utilization controls, medically
1089 necessary inpatient and outpatient services associated with the
1090 administration of any drug that has been classified by the
1091 division or the Food and Drug Administration as having treatment
1092 Investigational New Drug (IND) status, when the drug is being
1093 administered for the treatment of acquired immune deficiency
1094 syndrome (AIDS) or the human immunodeficiency virus (HIV), to
1095 otherwise eligible persons. This paragraph shall not require the
1096 division to pay for the cost of treatment IND drugs provided for
1097 research purposes by pharmaceutical companies or any other
1098 sponsors at no cost. Payment for care to any Medicaid eligible
1099 HIV-infected person in need of treatment shall not be denied
1100 solely on the basis of the use of a drug having treatment IND
1101 status. When medically feasible, every effort shall be made to
1102 administer drugs having treatment IND status on an outpatient
1103 basis.

1104 (40) Home- and community-based services approved by the
1105 United States Department of Health and Human Services for eligible
1106 recipients with a diagnosis of acquired immune deficiency syndrome
1107 (AIDS), who require intermediate care or a higher level of care.

1108 Services provided under a waiver obtained from the Secretary of
1109 the United States Department of Health and Human Services under
1110 this paragraph that are not otherwise included in the services
1111 provided for in this section shall be available only to the extent
1112 that federal financial participation for these services is
1113 available in accordance with the waiver, and subject to the terms,
1114 conditions and duration of the waiver. These services shall be
1115 provided to individual recipients in accordance with the
1116 recipient's needs as identified in the plan of care and subject to
1117 medical necessity and applicable utilization control. The
1118 division may contract with organizations qualified to provide,
1119 directly or by subcontract, services provided for in this
1120 paragraph to eligible recipients.

1121 Notwithstanding any provision of this article, except as
1122 authorized in the following paragraph and in Section 43-13-139,
1123 neither (a) the limitations on quantity or frequency of use of or
1124 the fees or charges for any of the care or services available to
1125 recipients under this section, nor (b) the payments or rates of
1126 reimbursement to providers rendering care or services authorized
1127 under this section to recipients, may be increased, decreased or
1128 otherwise changed from the levels in effect on July 1, 1986,
1129 unless such is authorized by an amendment to this section by the
1130 Legislature. However, the restriction in this paragraph shall not
1131 prevent the division from changing the payments or rates of
1132 reimbursement to providers without an amendment to this section
1133 whenever such changes are required by federal law or regulation,
1134 or whenever such changes are necessary to correct administrative
1135 errors or omissions in calculating such payments or rates of
1136 reimbursement.

1137 Notwithstanding any provision of this article, no new groups
1138 or categories of recipients and new types of care and services may
1139 be added without enabling legislation from the Mississippi
1140 Legislature, except that the division may authorize such changes

1141 without enabling legislation when such addition of recipients or
1142 services is ordered by a court of proper authority. The director
1143 shall keep the Governor advised on a timely basis of the funds
1144 available for expenditure and the projected expenditures. In the
1145 event current or projected expenditures can be reasonably
1146 anticipated to exceed the amounts appropriated for any fiscal
1147 year, the Governor, after consultation with the director, shall
1148 discontinue any or all of the payment of the types of care and
1149 services as provided herein which are deemed to be optional
1150 services under Title XIX of the federal Social Security Act, as
1151 amended, for any period necessary to not exceed appropriated
1152 funds, and when necessary shall institute any other cost
1153 containment measures on any program or programs authorized under
1154 the article to the extent allowed under the federal law governing
1155 such program or programs, it being the intent of the Legislature
1156 that expenditures during any fiscal year shall not exceed the
1157 amounts appropriated for such fiscal year.

1158 SECTION 37. (1) To ensure consistent public policy, the
1159 department, in consultation with appropriate state and local
1160 agencies and private entities, shall develop model workplace
1161 guidelines concerning persons with AIDS and HIV infection and
1162 related conditions.

1163 (2) The model workplace guidelines shall include provisions
1164 stating that:

1165 (a) All employees will receive some education about
1166 methods of transmission and prevention of HIV infection and
1167 related conditions;

1168 (b) Accommodations will be made to keep persons with
1169 HIV infection employed and productive for as long as possible;

1170 (c) The confidentiality of employee medical records
1171 will be protected;

1172 (d) AIDS- and HIV-related policies will be consistent
1173 with current information from public health authorities, such as

1174 the Centers for Disease Control of the United States Public Health
1175 Service, and with state and federal law and regulations;

1176 (e) Persons with HIV infection are entitled to the same
1177 rights and opportunities as persons with other communicable
1178 diseases; and

1179 (f) Employers and employees should not engage in
1180 discrimination against persons with HIV infection unless based on
1181 accurate scientific information.

1182 (3) The department shall develop more specific model
1183 workplace guidelines for employers in businesses with educational,
1184 correctional, health or social service responsibilities.

1185 (4) The department shall make the model workplace guidelines
1186 available on request.

1187 (5) Employers are encouraged to adopt AIDS- and HIV-related
1188 workplace guidelines that incorporate, at a minimum, the
1189 guidelines established by the department under this section.

1190 (6) Nothing in Sections 37 through 39 of this act shall be
1191 construed to create a new cause of action for a violation of
1192 workplace guidelines.

1193 SECTION 38. Each state agency shall adopt and implement
1194 workplace guidelines concerning persons with AIDS and HIV
1195 infection. The workplace guidelines shall incorporate at a
1196 minimum the model workplace guidelines developed by the
1197 department.

1198 SECTION 39. An entity that contracts with or is funded by
1199 any of the following state agencies to operate a program involving
1200 direct client contact shall adopt and implement workplace
1201 guidelines concerning persons with AIDS and HIV infection that are
1202 substantially similar to the guidelines adopted by the agency that
1203 funds or contracts with the entity:

1204 (a) The Mississippi School for the Blind;

1205 (b) The Mississippi School for the Deaf;

1206 (c) The Department of Corrections;

- 1207 (d) The State Department of Health;
1208 (e) The Department of Human Services;
1209 (f) The State Department of Mental Health;
1210 (g) The State Department of Rehabilitation Services;
1211 and
1212 (h) Any state institution of higher learning.

1213 SECTION 40. (1) A person shall not discriminate against an
1214 otherwise qualified individual in employment, education, housing,
1215 access to health care, public accommodations or governmental
1216 services solely by reason of the fact that such an individual is,
1217 or is regarded as being, infected with HIV.

1218 (2) A person may not discriminate against an otherwise
1219 qualified individual in the provision of benefits under any
1220 program or activity that receives or benefits from state financial
1221 assistance solely by reason of the fact that such an individual
1222 is, or is regarded as being, infected with HIV.

1223 SECTION 41. With respect to an individual who is infected
1224 with HIV, the individual may not be considered under Section 40 to
1225 be otherwise qualified if, under guidelines issued by the
1226 department, a bona fide medical determination is made that the
1227 individual, under the specific circumstances involved, will expose
1228 other individuals to a material risk of being infected with HIV.

1229 SECTION 42. As used in Sections 40 and 41 of this act, the
1230 term "program or activity" shall be applied in the same manner as
1231 prescribed by Section 504 of the Rehabilitation Act of 1973, (29
1232 USCS Section 794), as amended, including amendments enacted after
1233 July 1, 2000.

1234 SECTION 43. (1) Any aggrieved party may commence a civil
1235 action in any court of competent jurisdiction for the purpose of
1236 obtaining temporary or permanent injunctive relief with respect to
1237 preventing a person from being discriminated against in violation
1238 of Section 40 of this act.

1239 (2) Any person who is discriminated against in violation of

1240 Section 40 of this act may obtain appropriate relief in a civil
1241 action against any person engaging in such discrimination.

1242 (3) In an action under this section, the prevailing party
1243 shall be awarded reasonable attorney's fees and costs.

1244 SECTION 44. Section 40 of this act may not be construed to
1245 prohibit any business organization providing life insurance or
1246 health insurance from using information that the applicant is
1247 infected with HIV in determining whether insurance coverage will
1248 be granted.

1249 SECTION 45. This act shall take effect and be in force from
1250 and after July 1, 2000.