

By: Representative Dedeaux

To: Insurance

HOUSE BILL NO. 534

1 AN ACT TO AMEND SECTION 83-9-5, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT IF CLAIMS UNDER HEALTH INSURANCE POLICIES WHICH
3 INCLUDE COVERED BENEFITS FOR EYE AND DENTAL CARE ARE NOT PAID IN A
4 TIMELY MANNER, THE INSURER SHALL PAY THE INSURED A CERTAIN AMOUNT
5 OF INTEREST PER MONTH UNTIL THE CLAIM IS SETTLED OR ADJUDICATED;
6 AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 83-9-5, Mississippi Code of 1972, is
9 amended as follows:

10 83-9-5. (1) Required provisions. Except as provided in
11 subsection (3) of this section, each such policy delivered or
12 issued for delivery to any person in this state shall contain the
13 provisions specified in this subsection in the words in which the
14 same appear in this section. However, the insurer may, at its
15 option, substitute for one or more of such provisions,
16 corresponding provisions of different wording approved by the
17 commissioner which are in each instance not less favorable in any
18 respect to the insured or the beneficiary. Such provisions shall
19 be preceded individually by the caption appearing in this
20 subsection or, at the option of the insurer, by such appropriate
21 individual or group captions or subcaptions as the commissioner
22 may approve.

23 (a) A provision as follows:

24 Entire contract; changes: This policy, including the
25 endorsements and the attached papers, if any, constitutes the
26 entire contract of insurance. No change in this policy shall be
27 valid until approved by an executive officer of the insurer and
28 unless such approval be endorsed hereon or attached hereto. No



29 agent has authority to change this policy or to waive any of its
30 provisions.

31 (b) A provision as follows:

32 Time limit on certain defenses:

33 1. After two (2) years from the date of issue of this
34 policy, no misstatements, except fraudulent misstatements, made by
35 the applicant in the application for such policy shall be used to
36 void the policy or to deny a claim for loss incurred or disability
37 (as defined in the policy) commencing after the expiration of such
38 two-year period.

39 (The foregoing policy provision shall not be so construed as
40 to effect any legal requirement for avoidance of a policy or
41 denial of a claim during such initial two-year period, nor to
42 limit the application of subparagraphs (2) (a) and (2) (b) of this
43 section in the event of misstatement with respect to age or
44 occupation.)

45 (A policy which the insured has the right to continue in
46 force subject to its terms by the timely payment of premium (1)
47 until at least age fifty (50) or, (2) in the case of a policy
48 issued after age forty-four (44), for at least five (5) years from
49 its date of issue, may contain in lieu of the foregoing the
50 following provision (from which the clause in parentheses may be
51 omitted at the insurer's option) under the caption
52 "INCONTESTABLE":

53 After this policy has been in force for a period of two (2)
54 years during the lifetime of the insured (excluding any period
55 during which the insured is disabled), it shall become
56 incontestable as to the statements in the application.)

57 2. No claim for loss incurred or disability (as defined in
58 the policy) commencing after two (2) years from the date of issue
59 of this policy shall be reduced or denied on the ground that a
60 disease or physical condition not excluded from coverage by name



61 or specific description effective on the date of loss had existed
62 prior to the effective date of coverage of this policy.

63 (c) A provision as follows:

64 Grace period: A grace period of seven (7) days for weekly
65 premium policies, ten (10) days for monthly premium policies and
66 thirty-one (31) days for all other policies will be granted for
67 the payment of each premium falling due after the first premium,
68 during which grace period the policy shall continue in force.

69 (A policy which contains a cancellation provision may add, at
70 the end of the above provision, "subject to the right of the
71 insurer to cancel in accordance with the cancellation provision
72 hereof."

73 A policy in which the insurer reserves the right to refuse
74 any renewal shall have, at the beginning of the above provision,
75 "unless not less than five (5) days prior to the premium due date
76 the insurer has delivered to the insured or has mailed to his last
77 address as shown by the records of the insurer written notice of
78 its intention not to renew this policy beyond the period for which
79 the premium has been accepted.")

80 (d) A provision as follows:

81 Reinstatement: If any renewal premium be not paid within the
82 time granted the insured for payment, a subsequent acceptance of
83 premium by the insurer or by any agent duly authorized by the
84 insurer to accept such premium, without requiring in connection
85 therewith an application for reinstatement, shall reinstate the
86 policy. However, if the insurer or such agent requires an
87 application for reinstatement and issues a conditional receipt for
88 the premium tendered, the policy will be reinstated upon approval
89 of such application by the insurer or, lacking such approval, upon
90 the forty-fifth day following the date of such conditional receipt
91 unless the insurer has previously notified the insured in writing
92 of its disapproval of such application. The reinstated policy
93 shall cover only loss resulting from such accidental injury as may



94 be sustained after the date of reinstatement and loss due to such
95 sickness as may begin more than ten (10) days after such date. In
96 all other respects the insured and insurer shall have the same
97 rights thereunder as they had under the policy immediately before
98 the due date of the defaulted premium, subject to any provisions
99 endorsed hereon or attached hereto in connection with the
100 reinstatement. Any premium accepted in connection with a
101 reinstatement shall be applied to a period for which premium has
102 not been previously paid, but not to any period more than sixty
103 (60) days prior to the date of reinstatement. (The last sentence
104 of the above provision may be omitted from any policy which the
105 insured has the right to continue in force subject to its terms by
106 the timely payment of premiums (1) until at least age fifty (50)
107 or, (2) in the case of a policy issued after age forty-four (44),
108 for at least five (5) years from its date of issue.)

109 (e) A provision as follows:

110 Notice of claim: Written notice of claim must be given to
111 the insurer within thirty (30) days after the occurrence or
112 commencement of any loss covered by the policy, or as soon
113 thereafter as is reasonably possible. Notice given by or on
114 behalf of the insured or the beneficiary to the insurer at
115 _____, (insert the location of such office as the insurer may
116 designate for the purpose) or to any authorized agent of the
117 insurer, with information sufficient to identify the insured,
118 shall be deemed notice to the insurer.

119 (In a policy providing a loss-of-time benefit which may be
120 payable for at least two (2) years, an insurer may, at its option,
121 insert the following between the first and second sentences of the
122 above provision: "Subject to the qualifications set forth below,
123 if the insured suffers loss of time on account of disability for
124 which indemnity may be payable for at least two (2) years, he
125 shall, at least once in every six (6) months after having given
126 notice of claim, give to the insurer notice of continuance of said



127 disability, except in the event of legal incapacity. The period
128 of six (6) months following any filing of proof by the insured or
129 any payment by the insurer on account of such claim or any denial
130 of liability in whole or in part by the insurer shall be excluded
131 in applying this provision. Delay in the giving of such notice
132 shall not impair the insured's right to any indemnity which would
133 otherwise have accrued during the period of six (6) months
134 preceding the date on which such notice is actually given.")

135 (f) A provision as follows:

136 Claim forms: The insurer, upon receipt of a notice of claim,
137 will furnish to the claimant such forms as are usually furnished
138 by it for filing proofs of loss. If such forms are not furnished
139 within fifteen (15) days after the giving of such notice, the
140 claimant shall be deemed to have complied with the requirements of
141 this policy as to proof of loss upon submitting, within the time
142 fixed in the policy for filing proofs of loss, written proof
143 covering the occurrence, the character and the extent of the loss
144 for which claim is made.

145 (g) A provision as follows:

146 Proofs of loss: Written proof of loss must be furnished to
147 the insurer at its said office, in case of claim for loss for
148 which this policy provides any periodic payment contingent upon
149 continuing loss, within ninety (90) days after the termination of
150 the period for which the insurer is liable, and in case of claim
151 for any other loss, within ninety (90) days after the date of such
152 loss. Failure to furnish such proof within the time required
153 shall not invalidate or reduce any claim if it was not reasonably
154 possible to give proof within such time, provided such proof is
155 furnished as soon as reasonably possible and in no event, except
156 in the absence of legal capacity, later than one (1) year from the
157 time proof is otherwise required.

158 (h) A provision as follows:

159 Time of payment of claims:



160 1. All benefits payable under this policy, or any policy or
161 contract of insurance that includes covered benefits for dental
162 care or eye care, for any loss, other than loss for which this
163 policy provides any periodic payment, will be paid within
164 forty-five (45) days after receipt of due written proof of such
165 loss. Benefits due under the policies and claims are overdue if
166 not paid within forty-five (45) days after the insurer receives
167 proof of loss, necessary medical information and other information
168 essential for the insurer to administer coordination of benefits
169 and subrogation provisions. If such information is not supplied
170 as to the entire claim, the amount supported by reasonable proof
171 is overdue if not paid within forty-five (45) days after such
172 proof is received by the insurer. Any part or all of the
173 remainder of the claim that is later supported by such proof is
174 overdue if not paid within forty-five (45) days after such proof
175 is received by the insurer. To calculate the extent to which any
176 benefits are overdue, payment shall be treated as made on the date
177 a draft or other valid instrument was placed in the United States
178 mail to the last known address of the claimant or beneficiary in a
179 properly addressed, postpaid envelope, or, if not so posted, on
180 the date of delivery.

181 2. Subject to due written proof of loss, all accrued
182 benefits for loss for which this policy provides periodic payment
183 will be paid _____ (insert period for payment which must not
184 be less frequently than monthly) and any balance remaining unpaid
185 upon the termination of liability will be paid within forty-five
186 (45) days after receipt of due written proof.

187 3. If the claim is not denied for valid and proper reasons
188 by the end of such period of forty-five (45) days, the insurer
189 must pay the insured interest on accrued benefits at the rate of
190 one and one-half percent (1-1/2%) per month on the amount of such
191 claim until it is finally settled or adjudicated.



192 4. In the event the insurer fails to pay benefits when due,
193 the person entitled to such benefits may bring action to recover
194 such benefits, any interest which may accrue as provided in
195 subsection (1)(h)3. of this section and any other damages as may
196 be allowable by law.

197 (i) A provision as follows:

198 Payment of claims: Indemnity for loss of life will be
199 payable in accordance with the beneficiary designation and the
200 provisions respecting such payment which may be prescribed herein
201 and effective at the time of payment. If no such designation or
202 provision is then effective, such indemnity shall be payable to
203 the estate of the insured. Any other accrued indemnities unpaid
204 at the insured's death may, at the option of the insurer, be paid
205 either to such beneficiary or to such estate. All other
206 indemnities will be payable to the insured. When payments of
207 benefits are made to an insured directly for medical care or
208 services rendered by a health care provider, the health care
209 provider shall be notified of such payment. The notification
210 requirement shall not apply to a fixed-indemnity policy, a limited
211 benefit health insurance policy, medical payment coverage or
212 personal injury protection coverage in a motor vehicle policy,
213 coverage issued as a supplement to liability insurance or workers'
214 compensation.

215 (The following provisions, or either of them, may be included
216 with the foregoing provision at the option of the insurer: "If
217 any indemnity of this policy shall be payable to the estate of the
218 insured, or to an insured or beneficiary who is a minor or
219 otherwise not competent to give a valid release, the insurer may
220 pay such indemnity, up to an amount not exceeding \$_____,
221 (insert an amount which must not exceed One Thousand Dollars
222 (\$1,000.00)) to any relative by blood or connection by marriage of
223 the insured or beneficiary who is deemed by the insurer to be
224 equitably entitled thereto. Any payment made by the insurer in



225 good faith pursuant to this provision shall fully discharge the
226 insurer to the extent of such payment.

227 "Subject to any written direction of the insured in the
228 application or otherwise, all or a portion of any indemnities
229 provided by this policy on account of hospital, nursing, medical
230 or surgical services may, at the insurer's option and unless the
231 insured requests otherwise in writing not later than the time of
232 filing proofs of such loss, be paid directly to the hospital or
233 person rendering such services; but it is not required that the
234 service be rendered by a particular hospital or person.")

235 (j) A provision as follows:

236 Physical examinations: The insurer at his own expense shall
237 have the right and opportunity to examine the person of the
238 insured when and as often as it may reasonably require during the
239 pendency of a claim hereunder.

240 (k) A provision as follows:

241 Legal actions: No action at law or in equity shall be
242 brought to recover on this policy prior to the expiration of sixty
243 (60) days after written proof of loss has been furnished in
244 accordance with the requirements of this policy. No such action
245 shall be brought after the expiration of three (3) years after the
246 time written proof of loss is required to be furnished.

247 (l) A provision as follows:

248 Change of beneficiary: Unless the insured makes an
249 irrevocable designation of beneficiary, the right to change the
250 beneficiary is reserved to the insured, and the consent of the
251 beneficiary or beneficiaries shall not be requisite to surrender
252 or assignment of this policy, or to any change of beneficiary or
253 beneficiaries, or to any other changes in this policy.

254 (The first clause of this provision, relating to the
255 irrevocable designation of beneficiary, may be omitted at the
256 insurer's option.)



257 (2) Other provisions. Except as provided in subsection (3)
258 of this section, no such policy delivered or issued for delivery
259 to any person in this state shall contain provisions respecting
260 the matters set forth below unless such provisions are in the
261 words in which the same appear in this section. However, the
262 insurer may, at its option, use in lieu of any such provision a
263 corresponding provision of different wording approved by the
264 commissioner which is not less favorable in any respect to the
265 insured or the beneficiary. Any such provision contained in the
266 policy shall be preceded individually by the appropriate caption
267 appearing in this subsection or, at the option of the insurer, by
268 such appropriate individual or group captions or subcaptions as
269 the commissioner may approve.

270 (a) A provision as follows:

271 Change of occupation: If the insured be injured or contract
272 sickness after having changed his occupation to one classified by
273 the insurer as more hazardous than that stated in this policy or
274 while doing for compensation anything pertaining to an occupation
275 so classified, the insurer will pay only such portion of the
276 indemnities provided in this policy as the premium paid would have
277 purchased at the rates and within the limits fixed by the insurer
278 for such more hazardous occupation. If the insured changes his
279 occupation to one classified by the insurer as less hazardous than
280 that stated in this policy, the insurer, upon receipt of proof of
281 such change of occupation, will reduce the premium rate
282 accordingly, and will return the excess pro rata unearned premium
283 from the date of change of occupation or from the policy
284 anniversary date immediately preceding receipt of such proof,
285 whichever is the most recent. In applying this provision, the
286 classification of occupational risk and the premium rates shall be
287 such as have been last filed by the insurer prior to the
288 occurrence of the loss for which the insurer is liable, or prior
289 to date of proof of change in occupation, with the state official



290 having supervision of insurance in the state where the insured
291 resided at the time this policy was issued; but if such filing was
292 not required, then the classification of occupational risk and the
293 premium rates shall be those last made effective by the insurer in
294 such state prior to the occurrence of the loss or prior to the
295 date of proof of change in occupation.

296 (b) A provision as follows:

297 Misstatement of age: If the age of the insured has been
298 misstated, all amounts payable under this policy shall be such as
299 the premium paid would have purchased at the correct age.

300 (c) A provision as follows:

301 Relation of earnings to issuance: If the total monthly
302 amount of loss of time benefits promised for the same loss under
303 all valid loss of time coverage upon the insured, whether payable
304 on a weekly or monthly basis, shall exceed the monthly earnings of
305 the insured at the time disability commenced or his average
306 monthly earnings for the period of two (2) years immediately
307 preceding a disability for which claim is made, whichever is the
308 greater, the insurer will be liable only for such proportionate
309 amount of such benefits under this policy as the amount of such
310 monthly earnings or such average monthly earnings of the insured
311 bears to the total amount of monthly benefits for the same loss
312 under all such coverage upon the insured at the time such
313 disability commences and for the return of such part of the
314 premiums paid during such two (2) years as shall exceed the pro
315 rata amount of the premiums for the benefits actually paid
316 hereunder; but this shall not operate to reduce the total monthly
317 amount of benefits payable under all such coverage upon the
318 insured below the sum of Two Hundred Dollars (\$200.00) or the sum
319 of the monthly benefits specified in such coverages, whichever is
320 the lesser, nor shall it operate to reduce benefits other than
321 those payable for loss of time.



322 (The foregoing policy provision may be inserted only in a
323 policy which the insured has the right to continue in force
324 subject to its terms by the timely payment of premiums (1) until
325 at least age fifty (50) or, (2) in the case of a policy issued
326 after age forty-four (44), for at least five (5) years from its
327 date of issue. The insurer may, at its option, include in this
328 provision a definition of "valid loss of time coverage," approved
329 as to form by the commissioner, which definition shall be limited
330 in subject matter to coverage provided by governmental agencies or
331 by organizations subject to regulations by insurance law or by
332 insurance authorities of this or any other state of the United
333 States or any province of Canada, or to any other coverage the
334 inclusion of which may be approved by the commissioner, or any
335 combination of such coverages. In the absence of such definition,
336 such term shall not include any coverage provided for such insured
337 pursuant to any compulsory benefit statute (including any
338 workmen's compensation or employer's liability statute), or
339 benefits provided by union welfare plans or by employer or
340 employee benefit organizations.)

341 (d) A provision as follows:

342 Unpaid premium: Upon the payment of a claim under this
343 policy, any premium then due and unpaid or covered by any note or
344 written order may be deducted therefrom.

345 (e) A provision as follows:

346 Cancellation: The insurer may cancel this policy at any time
347 by written notice delivered to the insured, or mailed to his last
348 address as shown by the records of the insurer, stating when, not
349 less than five (5) days thereafter, such cancellation shall be
350 effective; and after the policy has been continued beyond its
351 original term, the insured may cancel this policy at any time by
352 written notice delivered or mailed to the insurer, effective upon
353 receipt or on such later date as may be specified in such notice.
354 In the event of cancellation, the insurer will return promptly the



355 unearned portion of any premium paid. If the insured cancels, the
356 earned premium shall be computed by the use of the short-rate
357 table last filed with the state official having supervision of
358 insurance in the state where the insured resided when the policy
359 was issued. If the insurer cancels, the earned premium shall be
360 computed pro rata. Cancellation shall be without prejudice to any
361 claim originating prior to the effective date of cancellation.

362 (f) A provision as follows:

363 Conformity with state statutes: Any provision of this policy
364 which, on its effective date, is in conflict with the statutes of
365 the state in which the insured resides on such date is hereby
366 amended to conform to the minimum requirements of such statutes.

367 (g) A provision as follows:

368 Illegal occupation: The insurer shall not be liable for any
369 loss to which a contributing cause was the insured's commission of
370 or attempt to commit a felony or to which a contributing cause was
371 the insured's being engaged in an illegal occupation.

372 (h) A provision as follows:

373 Intoxicants and narcotics: The insurer shall not be liable
374 for any loss sustained or contracted in consequence of the
375 insured's being intoxicated or under the influence of any narcotic
376 unless administered on the advice of a physician.

377 (3) Inapplicable or inconsistent provisions. If any
378 provision of this section is in whole or in part inapplicable to
379 or inconsistent with the coverage provided by a particular form of
380 policy, the insurer, with the approval of the commissioner, shall
381 omit from such policy any inapplicable provision or part of a
382 provision, and shall modify any inconsistent provision or part of
383 the provision in such manner as to make the provision as contained
384 in the policy consistent with the coverage provided by the policy.

385 (4) Order of certain policy provisions. The provisions
386 which are the subject of subsections (1) and (2) of this section,
387 or any corresponding provisions which are used in lieu thereof in



388 accordance with such subsections, shall be printed in the
389 consecutive order of the provisions in such subsections or, at the
390 option of the insurer, any such provision may appear as a unit in
391 any part of the policy, with other provisions to which it may be
392 logically related, provided the resulting policy shall not be in
393 whole or in part unintelligible, uncertain, ambiguous, abstruse or
394 likely to mislead a person to whom the policy is offered,
395 delivered or issued.

396 (5) Third-party ownership. The word "insured," as used in
397 Sections 83-9-1 through 83-9-21, Mississippi Code of 1972, shall
398 not be construed as preventing a person other than the insured
399 with a proper insurable interest from making application for and
400 owning a policy covering the insured, or from being entitled under
401 such a policy to any indemnities, benefits and rights provided
402 therein.

403 (6) Requirements of other jurisdictions.

404 (a) Any policy of a foreign or alien insurer, when
405 delivered or issued for delivery to any person in this state, may
406 contain any provision which is not less favorable to the insured
407 or the beneficiary than the provisions of Sections 83-9-1 through
408 83-9-21, Mississippi Code of 1972, and which is prescribed or
409 required by the law of the state under which the insurer is
410 organized.

411 (b) Any policy of a domestic insurer may, when issued
412 for delivery in any other state or country, contain any provision
413 permitted or required by the laws of such other state or country.

414 (7) Filing procedure. The commissioner may make such
415 reasonable rules and regulations concerning the procedure for the
416 filing or submission of policies subject to the cited sections as
417 are necessary, proper or advisable to the administration of said
418 sections. This provision shall not abridge any other authority
419 granted the commissioner by law.



420 SECTION 2. This act shall take effect and be in force from
421 and after July 1, 2001.

