

By: Representatives Grist, Scott (80th)

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 1238

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT PERSONS WHO LIVE AT HOME BUT WOULD BE ELIGIBLE FOR  
 3 SERVICES IN A NURSING HOME, WHO REGULARLY SPEND MORE THAN 50% OF  
 4 THEIR MONTHLY INCOME ON PRESCRIPTION DRUGS AND OVER-THE-COUNTER  
 5 DRUGS, SHALL BE ELIGIBLE FOR MEDICAID; TO PROVIDE THAT THOSE  
 6 PERSONS SHALL BE ELIGIBLE ONLY FOR PRESCRIPTION DRUGS AND  
 7 OVER-THE-COUNTER DRUGS COVERED UNDER MEDICAID; TO DIRECT THE  
 8 DIVISION OF MEDICAID TO APPLY FOR A FEDERAL WAIVER TO ALLOW FOR  
 9 THE IMPLEMENTATION OF THE PRECEDING PROVISIONS; AND FOR RELATED  
 10 PURPOSES.

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

12 SECTION 1. Section 43-13-115, Mississippi Code of 1972, is  
 13 amended as follows:

14 43-13-115. Recipients of medical assistance shall be the  
 15 following persons only:

16 (1) Who are qualified for public assistance grants  
 17 under provisions of Title IV-A and E of the federal Social  
 18 Security Act, as amended, as determined by the State Department of  
 19 Human Services, including those statutorily deemed to be IV-A as  
 20 determined by the State Department of Human Services and certified  
 21 to the Division of Medicaid, but not optional groups except as  
 22 specifically covered in this section. For the purposes of this  
 23 paragraph (1) and paragraphs (8), (17) and (18) of this section,  
 24 any reference to Title IV-A or to Part A of Title IV of the  
 25 federal Social Security Act, as amended, or the state plan under  
 26 Title IV-A or Part A of Title IV, shall be considered as a  
 27 reference to Title IV-A of the federal Social Security Act, as  
 28 amended, and the state plan under Title IV-A, including the income  
 29 and resource standards and methodologies under Title IV-A and the  
 30 state plan, as they existed on July 16, 1996.

31           (2) Those qualified for Supplemental Security Income  
32 (SSI) benefits under Title XVI of the federal Social Security Act,  
33 as amended. The eligibility of individuals covered in this  
34 paragraph shall be determined by the Social Security  
35 Administration and certified to the Division of Medicaid.

36           (3) [Deleted]

37           (4) [Deleted]

38           (5) A child born on or after October 1, 1984, to a  
39 woman eligible for and receiving medical assistance under the  
40 state plan on the date of the child's birth shall be deemed to  
41 have applied for medical assistance and to have been found  
42 eligible for such assistance under such plan on the date of such  
43 birth and will remain eligible for such assistance for a period of  
44 one (1) year so long as the child is a member of the woman's  
45 household and the woman remains eligible for such assistance or  
46 would be eligible for assistance if pregnant. The eligibility of  
47 individuals covered in this paragraph shall be determined by the  
48 State Department of Human Services and certified to the Division  
49 of Medicaid.

50           (6) Children certified by the State Department of Human  
51 Services to the Division of Medicaid of whom the state and county  
52 human services agency has custody and financial responsibility,  
53 and children who are in adoptions subsidized in full or part by  
54 the Department of Human Services, who are approvable under Title  
55 XIX of the Medicaid program.

56           (7) (a) Persons certified by the Division of Medicaid  
57 who are patients in a medical facility (nursing home, hospital,  
58 tuberculosis sanatorium or institution for treatment of mental  
59 diseases), and who, except for the fact that they are patients in  
60 such medical facility, would qualify for grants under Title IV,  
61 supplementary security income benefits under Title XVI or state  
62 supplements, and those aged, blind and disabled persons who would  
63 not be eligible for supplemental security income benefits under

64 Title XVI or state supplements if they were not institutionalized  
65 in a medical facility but whose income is below the maximum  
66 standard set by the Division of Medicaid, which standard shall not  
67 exceed that prescribed by federal regulation;

68 (b) Individuals who have elected to receive  
69 hospice care benefits and who are eligible using the same criteria  
70 and special income limits as those in institutions as described in  
71 subparagraph (a) of this paragraph (7).

72 (8) Children under eighteen (18) years of age and  
73 pregnant women (including those in intact families) who meet the  
74 AFDC financial standards of the state plan approved under Title  
75 IV-A of the federal Social Security Act, as amended. The  
76 eligibility of children covered under this paragraph shall be  
77 determined by the State Department of Human Services and certified  
78 to the Division of Medicaid.

79 (9) Individuals who are:

80 (a) Children born after September 30, 1983, who  
81 have not attained the age of nineteen (19), with family income  
82 that does not exceed one hundred percent (100%) of the nonfarm  
83 official poverty line;

84 (b) Pregnant women, infants and children who have  
85 not attained the age of six (6), with family income that does not  
86 exceed one hundred thirty-three percent (133%) of the federal  
87 poverty level; and

88 (c) Pregnant women and infants who have not  
89 attained the age of one (1), with family income that does not  
90 exceed one hundred eighty-five percent (185%) of the federal  
91 poverty level.

92 The eligibility of individuals covered in (a), (b) and (c) of  
93 this paragraph shall be determined by the Department of Human  
94 Services.

95 (10) Certain disabled children age eighteen (18) or  
96 under who are living at home, who would be eligible, if in a

97 medical institution, for SSI or a state supplemental payment under  
98 Title XVI of the federal Social Security Act, as amended, and  
99 therefore for Medicaid under the plan, and for whom the state has  
100 made a determination as required under Section 1902(e)(3)(b) of  
101 the federal Social Security Act, as amended. The eligibility of  
102 individuals under this paragraph shall be determined by the  
103 Division of Medicaid.

104 (11) Individuals who are sixty-five (65) years of age  
105 or older or are disabled as determined under Section 1614(a)(3) of  
106 the federal Social Security Act, as amended, and who meet the  
107 following criteria:

108 (a) Until December 31, 1999, whose income does not  
109 exceed one hundred percent (100%) of the nonfarm official poverty  
110 line as defined by the Office of Management and Budget and revised  
111 annually, and from and after January 1, 2000, whose income does  
112 not exceed one hundred thirty-five percent (135%) of the nonfarm  
113 official poverty line as defined by the Office of Management and  
114 Budget and revised annually.

115 (b) Whose resources do not exceed two hundred  
116 percent (200%) of the amount allowed under the Supplemental  
117 Security Income (SSI) program.

118 The eligibility of individuals covered under this paragraph  
119 shall be determined by the Division of Medicaid, and such  
120 individuals determined eligible shall receive the same Medicaid  
121 services as other categorical eligible individuals.

122 (12) Individuals who are qualified Medicare  
123 beneficiaries (QMB) entitled to Part A Medicare as defined under  
124 Section 301, Public Law 100-360, known as the Medicare  
125 Catastrophic Coverage Act of 1988, and whose income does not  
126 exceed one hundred percent (100%) of the nonfarm official poverty  
127 line as defined by the Office of Management and Budget and revised  
128 annually.

129           The eligibility of individuals covered under this paragraph  
130 shall be determined by the Division of Medicaid, and such  
131 individuals determined eligible shall receive Medicare  
132 cost-sharing expenses only as more fully defined by the Medicare  
133 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of  
134 1997.

135           (13) (a) Individuals who are entitled to Medicare Part  
136 A as defined in Section 4501 of the Omnibus Budget Reconciliation  
137 Act of 1990, and whose income does not exceed one hundred twenty  
138 percent (120%) of the nonfarm official poverty line as defined by  
139 the Office of Management and Budget and revised annually.

140           (b) Individuals entitled to Part A of Medicare,  
141 with income above one hundred twenty percent (120%), but less than  
142 one hundred thirty-five percent (135%) of the federal poverty  
143 level, and not otherwise eligible for Medicaid. Eligibility for  
144 Medicaid benefits is limited to full payment of Medicare Part B  
145 premiums. The number of eligible individuals is limited by the  
146 availability of the federal capped allocation at one hundred  
147 percent (100%) of federal matching funds, as more fully defined in  
148 the Balanced Budget Act of 1997.

149           (c) Individuals entitled to Part A of Medicare,  
150 with income of at least one hundred thirty-five percent (135%),  
151 but not exceeding one hundred seventy-five percent (175%) of the  
152 federal poverty level, and not otherwise eligible for Medicaid.  
153 Eligibility for Medicaid benefits is limited to partial payment of  
154 Medicare Part B premiums. The number of eligible individuals is  
155 limited by the availability of the federal capped allocation of  
156 one hundred percent (100%) federal matching funds, as more fully  
157 defined in the Balanced Budget Act of 1997.

158           The eligibility of individuals covered under this paragraph  
159 shall be determined by the Division of Medicaid.

160           (14) [Deleted]

161           (15) Disabled workers who are eligible to enroll in  
162 Part A Medicare as required by Public Law 101-239, known as the  
163 Omnibus Budget Reconciliation Act of 1989, and whose income does  
164 not exceed two hundred percent (200%) of the federal poverty level  
165 as determined in accordance with the Supplemental Security Income  
166 (SSI) program. The eligibility of individuals covered under this  
167 paragraph shall be determined by the Division of Medicaid and such  
168 individuals shall be entitled to buy-in coverage of Medicare Part  
169 A premiums only under the provisions of this paragraph (15).

170           (16) In accordance with the terms and conditions of  
171 approved Title XIX waiver from the United States Department of  
172 Health and Human Services, persons provided home- and  
173 community-based services who are physically disabled and certified  
174 by the Division of Medicaid as eligible due to applying the income  
175 and deeming requirements as if they were institutionalized.

176           (17) In accordance with the terms of the federal  
177 Personal Responsibility and Work Opportunity Reconciliation Act of  
178 1996 (Public Law 104-193), persons who become ineligible for  
179 assistance under Title IV-A of the federal Social Security Act, as  
180 amended, because of increased income from or hours of employment  
181 of the caretaker relative or because of the expiration of the  
182 applicable earned income disregards, who were eligible for  
183 Medicaid for at least three (3) of the six (6) months preceding  
184 the month in which such ineligibility begins, shall be eligible  
185 for Medicaid assistance for up to twenty-four (24) months;  
186 however, Medicaid assistance for more than twelve (12) months may  
187 be provided only if a federal waiver is obtained to provide such  
188 assistance for more than twelve (12) months and federal and state  
189 funds are available to provide such assistance.

190           (18) Persons who become ineligible for assistance under  
191 Title IV-A of the federal Social Security Act, as amended, as a  
192 result, in whole or in part, of the collection or increased  
193 collection of child or spousal support under Title IV-D of the

194 federal Social Security Act, as amended, who were eligible for  
195 Medicaid for at least three (3) of the six (6) months immediately  
196 preceding the month in which such ineligibility begins, shall be  
197 eligible for Medicaid for an additional four (4) months beginning  
198 with the month in which such ineligibility begins.

199           (19) Disabled workers, whose incomes are above the  
200 Medicaid eligibility limits, but below two hundred fifty percent  
201 (250%) of the federal poverty level, shall be allowed to purchase  
202 Medicaid coverage on a sliding fee scale developed by the Division  
203 of Medicaid.

204           (20) Medicaid eligible children under age eighteen (18)  
205 shall remain eligible for Medicaid benefits until the end of a  
206 period of twelve (12) months following an eligibility  
207 determination, or until such time that the individual exceeds age  
208 eighteen (18).

209           (21) Women of childbearing age whose family income does  
210 not exceed one hundred eighty-five percent (185%) of the federal  
211 poverty level. The eligibility of individuals covered under this  
212 paragraph (21) shall be determined by the Division of Medicaid,  
213 and those individuals determined eligible shall only receive  
214 family planning services covered under Section 43-13-117(13) and  
215 not any other services covered under Medicaid. However, any  
216 individual eligible under this paragraph (21) who is also eligible  
217 under any other provision of this section shall receive the  
218 benefits to which he or she is entitled under that other  
219 provision, in addition to family planning services covered under  
220 Section 43-13-117(13).

221           The Division of Medicaid shall apply to the United States  
222 Secretary of Health and Human Services for a federal waiver of the  
223 applicable provisions of Title XIX of the federal Social Security  
224 Act, as amended, and any other applicable provisions of federal  
225 law as necessary to allow for the implementation of this paragraph  
226 (21). The provisions of this paragraph (21) shall be implemented

227 from and after the date that the Division of Medicaid receives the  
228 federal waiver.

229 (22) Persons who are workers with a potentially severe  
230 disability, as determined by the division, shall be allowed to  
231 purchase Medicaid coverage. The term "worker with a potentially  
232 severe disability" means a person who is at least sixteen (16)  
233 years of age but under sixty-five (65) years of age, who has a  
234 physical or mental impairment that is reasonably expected to cause  
235 the person to become blind or disabled as defined under Section  
236 1614(a) of the federal Social Security Act, as amended, if the  
237 person does not receive items and services provided under  
238 Medicaid.

239 The eligibility of persons under this paragraph (22) shall be  
240 conducted as a demonstration project that is consistent with  
241 Section 204 of the Ticket to Work and Work Incentives Improvement  
242 Act of 1999, Public Law 106-170, for a certain number of persons  
243 as specified by the division. The eligibility of individuals  
244 covered under this paragraph (22) shall be determined by the  
245 Division of Medicaid.

246 The Division of Medicaid shall apply to the United States  
247 Secretary of Health and Human Services for a federal waiver of the  
248 applicable provisions of Title XIX of the federal Social Security  
249 Act, as amended, and any other applicable provisions of federal  
250 law as necessary to allow for the implementation of this paragraph  
251 (22). The provisions of this paragraph (22) shall be implemented  
252 from and after the date that the Division of Medicaid receives the  
253 federal waiver.

254 (23) Individuals who would be eligible for services in  
255 a nursing home but who live in their own place of residence, whose  
256 income does not exceed the amount prescribed by federal regulation  
257 for nursing home care, and who regularly expend more than fifty  
258 percent (50%) of their monthly income on prescription drugs and  
259 over-the-counter drugs.

260       The eligibility of individuals covered under this paragraph  
261 (23) shall be determined by the Division of Medicaid. The  
262 individuals determined eligible shall be eligible only for  
263 prescription drugs and over-the-counter drugs covered under  
264 Section 43-13-117(9) and not for any other services covered under  
265 Section 43-13-117.

266       The Division of Medicaid shall apply to the United States  
267 Secretary of Health and Human Services for a federal waiver of the  
268 applicable provisions of Title XIX of the federal Social Security  
269 Act, as amended, and any other applicable provisions of federal  
270 law as necessary to allow for the implementation of this paragraph  
271 (23). The provisions of this paragraph (23) shall be implemented  
272 from and after the date that the Division of Medicaid receives the  
273 federal waiver.

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