

By: Representative Espy

To: Public Health and
Welfare; Appropriations

HOUSE BILL NO. 837

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE MEDICAID ELIGIBILITY FOR CHILDREN UNDER NINETEEN YEARS
 3 OF AGE AND THEIR PARENTS OR CARETAKER RELATIVES IN FAMILIES WITH
 4 FAMILY INCOME THAT DOES NOT EXCEED 133% OF THE FEDERAL POVERTY
 5 LEVEL; TO DIRECT THE DIVISION OF MEDICAID TO APPLY FOR A FEDERAL
 6 WAIVER TO ALLOW FEDERAL MATCHING FUNDS UNDER THE CHILDREN'S HEALTH
 7 INSURANCE PROGRAM (CHIP) TO BE USED TO PAY FOR COVERAGE OF THOSE
 8 PERSONS; TO PROVIDE THAT PAYMENT FOR COVERAGE OF THOSE PERSONS
 9 WILL BE MADE FROM STATE AND FEDERAL MEDICAID FUNDS UNTIL A FEDERAL
 10 WAIVER IS OBTAINED THAT ALLOWS FEDERAL CHIP FUNDS TO BE USED FOR
 11 THAT PURPOSE, AT WHICH TIME STATE AND FEDERAL CHIP FUNDS WILL BE
 12 USED TO PAY FOR COVERAGE OF THOSE PERSONS; TO AMEND SECTION
 13 41-86-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PARENTS OR
 14 CARETAKER RELATIVES OF CHILDREN WHOSE FAMILY INCOME DOES NOT
 15 EXCEED 200% OF THE POVERTY LEVEL WILL BE ELIGIBLE TO RECEIVE
 16 BENEFITS UNDER THE CHIP PROGRAM IF A FEDERAL WAIVER IS OBTAINED
 17 THAT ALLOWS THOSE PERSONS TO BE ELIGIBLE AND ALLOWS FEDERAL
 18 MATCHING CHIP FUNDS TO BE USED TO PAY FOR COVERAGE OF THOSE
 19 PERSONS; TO DIRECT THE DIVISION OF MEDICAID TO APPLY FOR A FEDERAL
 20 WAIVER FOR THAT PURPOSE; AND FOR RELATED PURPOSES.

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

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

24 43-13-115. Recipients of Medicaid shall be the following
 25 persons only:

26 (1) Who are qualified for public assistance grants
 27 under provisions of Title IV-E of the federal Social Security Act,
 28 as amended, as determined by the State Department of Human
 29 Services * * *.

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

35 (3) Children under nineteen (19) years of age and their
 36 parents or caretaker relatives in families with family income that



37 does not exceed one hundred thirty-three percent (133%) of the
38 federal poverty level. This paragraph (3) is implementing the
39 state option under Section 1931(b)(2)(C) of the federal Social
40 Security Act, as amended (42 USCS Section 1396u-1(b)(2)(C)), which
41 allows states to use income and resource methodologies that are
42 less restrictive than the methodologies used under the state plan
43 as of July 16, 1996.

44 The Division of Medicaid shall apply to the United States
45 Secretary of Health and Human Services for a federal waiver of the
46 applicable provisions of Title XXI of the federal Social Security
47 Act, as amended (the State Children's Health Insurance Program),
48 and any other applicable provisions of federal law as necessary to
49 allow federal matching funds under Title XXI to be used to pay for
50 coverage of the persons described in this paragraph.

51 The provisions of this paragraph (3) will be implemented from
52 and after July 1, 2002, using state funds and federal matching
53 funds under Title XIX of the federal Social Security Act, as
54 amended. If the Division of Medicaid obtains a federal waiver
55 that allows Title XXI federal matching funds to be used to pay for
56 coverage of the persons described in this paragraph, then state
57 funds and Title XXI federal matching funds will be used to
58 implement the provisions of this paragraph from and after the date
59 that the Division of Medicaid obtains the waiver. However, if
60 Title XXI federal matching funds are used to implement the
61 provisions of this paragraph, but Title XXI federal matching funds
62 later become unavailable or insufficient to fully implement the
63 provisions of this paragraph, then this paragraph will be
64 implemented using state funds and Title XIX federal matching
65 funds.

66 (4) [Deleted]

67 (5) A child born on or after October 1, 1984, to a
68 woman eligible for and receiving Medicaid under the state plan on
69 the date of the child's birth shall be deemed to have applied for



70 Medicaid and to have been found eligible for Medicaid under the
71 plan on the date of that birth, and will remain eligible for
72 Medicaid for a period of one (1) year so long as the child is a
73 member of the woman's household and the woman remains eligible for
74 Medicaid or would be eligible for Medicaid if pregnant. The
75 eligibility of individuals covered in this paragraph shall be
76 determined by the State Department of Human Services and certified
77 to the Division of Medicaid.

78 (6) Children certified by the State Department of Human
79 Services to the Division of Medicaid of whom the state and county
80 departments of human services have custody and financial
81 responsibility, and children who are in adoptions subsidized in
82 full or part by the Department of Human Services, including
83 special needs children in non-Title IV-E adoption assistance, who
84 are approvable under Title XIX of the Medicaid program.

85 (7) (a) Persons certified by the Division of Medicaid
86 who are patients in a medical facility (nursing home, hospital,
87 tuberculosis sanatorium or institution for treatment of mental
88 diseases), and who, except for the fact that they are patients in
89 such medical facility, would qualify for grants under Title IV,
90 Supplementary Security Income (SSI) benefits under Title XVI or
91 state supplements, and those aged, blind and disabled persons who
92 would not be eligible for Supplemental Security Income (SSI)
93 benefits under Title XVI or state supplements if they were not
94 institutionalized in a medical facility but whose income is below
95 the maximum standard set by the Division of Medicaid, which
96 standard shall not exceed that prescribed by federal regulation;

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

101 (8) * * * Pregnant women (including those in intact
102 families) who meet the * * * financial standards of the state plan



103 approved under Title IV-A of the federal Social Security Act, as
104 amended, as they existed on July 16, 1996. The eligibility of
105 persons covered under this paragraph shall be determined by the
106 State Department of Human Services and certified to the Division
107 of Medicaid.

108 (9) Individuals who are:

109 (a) Children born after September 30, 1983, who
110 have not attained the age of nineteen (19), with family income
111 that does not exceed one hundred percent (100%) of the nonfarm
112 official poverty level;

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

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

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

124 (10) Certain disabled children age eighteen (18) or
125 under who are living at home, who would be eligible, if in a
126 medical institution, for SSI or a state supplemental payment under
127 Title XVI of the federal Social Security Act, as amended, and
128 therefore for Medicaid under the plan, and for whom the state has
129 made a determination as required under Section 1902(e)(3)(b) of
130 the federal Social Security Act, as amended. The eligibility of
131 individuals under this paragraph shall be determined by the
132 Division of Medicaid.

133 (11) Individuals who are sixty-five (65) years of age
134 or older or are disabled as determined under Section 1614(a)(3) of
135 the federal Social Security Act, as amended, and whose income does



136 not exceed one hundred thirty-five percent (135%) of the nonfarm
137 official poverty level as defined by the Office of Management and
138 Budget and revised annually, and whose resources do not exceed
139 those established by the Division of Medicaid.

140 The eligibility of individuals covered under this paragraph
141 shall be determined by the Division of Medicaid, and those
142 individuals determined eligible shall receive the same Medicaid
143 services as other categorical eligible individuals.

144 (12) Individuals who are qualified Medicare
145 beneficiaries (QMB) entitled to Part A Medicare as defined under
146 Section 301, Public Law 100-360, known as the Medicare
147 Catastrophic Coverage Act of 1988, and whose income does not
148 exceed one hundred percent (100%) of the nonfarm official poverty
149 level as defined by the Office of Management and Budget and
150 revised annually.

151 The eligibility of individuals covered under this paragraph
152 shall be determined by the Division of Medicaid, and those
153 individuals determined eligible shall receive Medicare
154 cost-sharing expenses only as more fully defined by the Medicare
155 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
156 1997.

157 (13) (a) Individuals who are entitled to Medicare Part
158 A as defined in Section 4501 of the Omnibus Budget Reconciliation
159 Act of 1990, and whose income does not exceed one hundred twenty
160 percent (120%) of the nonfarm official poverty level as defined by
161 the Office of Management and Budget and revised annually.

162 Eligibility for Medicaid benefits is limited to full payment of
163 Medicare Part B premiums.

164 (b) Individuals entitled to Part A of Medicare,
165 with income above one hundred twenty percent (120%), but less than
166 one hundred thirty-five percent (135%) of the federal poverty
167 level, and not otherwise eligible for Medicaid. Eligibility for
168 Medicaid benefits is limited to full payment of Medicare Part B



169 premiums. The number of eligible individuals is limited by the
170 availability of the federal capped allocation at one hundred
171 percent (100%) of federal matching funds, as more fully defined in
172 the Balanced Budget Act of 1997.

173 (c) Individuals entitled to Part A of Medicare,
174 with income of at least one hundred thirty-five percent (135%),
175 but not exceeding one hundred seventy-five percent (175%) of the
176 federal poverty level, and not otherwise eligible for Medicaid.
177 Eligibility for Medicaid benefits is limited to partial payment of
178 Medicare Part B premiums. The number of eligible individuals is
179 limited by the availability of the federal capped allocation of
180 one hundred percent (100%) federal matching funds, as more fully
181 defined in the Balanced Budget Act of 1997.

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

184 (14) [Deleted]

185 (15) Disabled workers who are eligible to enroll in
186 Part A Medicare as required by Public Law 101-239, known as the
187 Omnibus Budget Reconciliation Act of 1989, and whose income does
188 not exceed two hundred percent (200%) of the federal poverty level
189 as determined in accordance with the Supplemental Security Income
190 (SSI) program. The eligibility of individuals covered under this
191 paragraph shall be determined by the Division of Medicaid, and
192 those individuals shall be entitled to buy-in coverage of Medicare
193 Part A premiums only under the provisions of this paragraph (15).

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

200 (17) In accordance with the terms of the federal
201 Personal Responsibility and Work Opportunity Reconciliation Act of



202 1996 (Public Law 104-193), persons who become ineligible for
203 Medicaid under paragraph (3) of this section because of increased
204 income from or hours of employment of the caretaker relative or
205 because of the expiration of the applicable earned income
206 disregards, who were eligible for Medicaid for at least three (3)
207 of the six (6) months preceding the month in which the
208 ineligibility begins, shall be eligible for Medicaid * * * for up
209 to twenty-four (24) months; however, Medicaid may be provided for
210 more than twelve (12) months * * * only if a federal waiver is
211 obtained to allow Medicaid to be provided for more than twelve
212 (12) months and federal and state funds are available to provide
213 Medicaid for that purpose.

214 (18) Persons who become ineligible for Medicaid under
215 paragraph (3) of this section as a result, in whole or in part, of
216 the collection or increased collection of child or spousal support
217 under Title IV-D of the federal Social Security Act, as amended,
218 who were eligible for Medicaid for at least three (3) of the six
219 (6) months immediately preceding the month in which the
220 ineligibility begins, shall be eligible for Medicaid for an
221 additional four (4) months beginning with the month in which the
222 ineligibility begins.

223 (19) Disabled workers, whose incomes are above the
224 Medicaid eligibility limits, but below two hundred fifty percent
225 (250%) of the federal poverty level, shall be allowed to purchase
226 Medicaid coverage on a sliding fee scale developed by the Division
227 of Medicaid.

228 (20) Medicaid eligible children under age eighteen (18)
229 shall remain eligible for Medicaid benefits until the end of a
230 period of twelve (12) months following an eligibility
231 determination, or until such time that the individual exceeds age
232 eighteen (18).

233 (21) Women of childbearing age whose family income does
234 not exceed one hundred eighty-five percent (185%) of the federal



235 poverty level. The eligibility of individuals covered under this
236 paragraph (21) shall be determined by the Division of Medicaid,
237 and those individuals determined eligible shall only receive
238 family planning services covered under Section 43-13-117(13) and
239 not any other services covered under Medicaid. However, any
240 individual eligible under this paragraph (21) who is also eligible
241 under any other provision of this section shall receive the
242 benefits to which he or she is entitled under that other
243 provision, in addition to family planning services covered under
244 Section 43-13-117(13).

245 The Division of Medicaid shall apply to the United States
246 Secretary of Health and Human Services for a federal waiver of the
247 applicable provisions of Title XIX of the federal Social Security
248 Act, as amended, and any other applicable provisions of federal
249 law as necessary to allow for the implementation of this paragraph
250 (21). The provisions of this paragraph (21) shall be implemented
251 from and after the date that the Division of Medicaid receives the
252 federal waiver.

253 (22) Persons who are workers with a potentially severe
254 disability, as determined by the division, shall be allowed to
255 purchase Medicaid coverage. The term "worker with a potentially
256 severe disability" means a person who is at least sixteen (16)
257 years of age but under sixty-five (65) years of age, who has a
258 physical or mental impairment that is reasonably expected to cause
259 the person to become blind or disabled as defined under Section
260 1614(a) of the federal Social Security Act, as amended, if the
261 person does not receive items and services provided under
262 Medicaid.

263 The eligibility of persons under this paragraph (22) shall be
264 conducted as a demonstration project that is consistent with
265 Section 204 of the Ticket to Work and Work Incentives Improvement
266 Act of 1999, Public Law 106-170, for a certain number of persons
267 as specified by the division. The eligibility of individuals



268 covered under this paragraph (22) shall be determined by the
269 Division of Medicaid.

270 The Division of Medicaid shall apply to the United States
271 Secretary of Health and Human Services for a federal waiver of the
272 applicable provisions of Title XIX of the federal Social Security
273 Act, as amended, and any other applicable provisions of federal
274 law as necessary to allow for the implementation of this paragraph
275 (22). The provisions of this paragraph (22) shall be implemented
276 from and after the date that the Division of Medicaid receives the
277 federal waiver.

278 (23) Children certified by the Mississippi Department
279 of Human Services for whom the state and county departments of
280 human services have custody and financial responsibility who are
281 in foster care on their eighteenth birthday as reported by the
282 Mississippi Department of Human Services shall be certified
283 Medicaid eligible by the Division of Medicaid until their
284 twenty-first birthday.

285 (24) Individuals who have not attained age sixty-five
286 (65), are not otherwise covered by creditable coverage as defined
287 in the Public Health Services Act, and have been screened for
288 breast and cervical cancer under the Centers for Disease Control
289 and Prevention Breast and Cervical Cancer Early Detection Program
290 established under Title XV of the Public Health Service Act in
291 accordance with the requirements of that act and who need
292 treatment for breast or cervical cancer. Eligibility of
293 individuals under this paragraph (24) shall be determined by the
294 Division of Medicaid.

295 (25) Individuals who would be eligible for services in
296 a nursing home but who live in a noninstitutional setting, whose
297 income does not exceed the amount prescribed by federal regulation
298 for nursing home care, and who regularly expend more than fifty
299 percent (50%) of their monthly income on prescription drugs and
300 over-the-counter drugs.



301 The eligibility of individuals covered under this paragraph
302 (25) shall be determined by the Division of Medicaid. The
303 individuals determined eligible shall be eligible only for
304 prescription drugs and over-the-counter drugs covered under
305 Section 43-13-117(9) and not for any other services covered under
306 Section 43-13-117.

307 The Division of Medicaid shall apply to the United States
308 Secretary of Health and Human Services for a federal waiver of the
309 applicable provisions of Title XIX of the federal Social Security
310 Act, as amended, and any other applicable provisions of federal
311 law as necessary to allow for the implementation of this paragraph
312 (25). The provisions of this paragraph (25) shall be implemented
313 from and after the date that the Division of Medicaid receives the
314 federal waiver.

315 **SECTION 2.** Section 41-86-15, Mississippi Code of 1972, is
316 amended as follows:

317 41-86-15. (1) (a) Persons eligible to receive covered
318 benefits under Sections 41-86-5 through 41-86-17 shall be
319 low-income children who meet the eligibility standards set forth
320 in the plan.

321 In addition, the parents or caretaker relatives of low-income
322 children will be eligible to receive covered benefits under
323 Sections 41-86-5 through 41-86-17 if a federal waiver is obtained
324 that allows those persons to be eligible for covered benefits and
325 allows federal matching funds under Title XXI of the federal
326 Social Security Act, as amended, to be used to pay for coverage of
327 those persons.

328 The Division of Medicaid shall apply to the United States
329 Secretary of Health and Human Services for a federal waiver of the
330 applicable provisions of Title XXI and any other applicable
331 provisions of federal law as necessary to allow the parents or
332 caretaker relatives of low-income children to be eligible to
333 receive covered benefits under Sections 41-86-5 through 41-86-17



334 and to allow Title XXI federal matching funds to be used to pay
335 for coverage of those persons. After the date that the Division
336 of Medicaid obtains that federal waiver, then the parents or
337 caretaker relatives of low-income children will be eligible to
338 receive covered benefits under Sections 41-86-5 through 41-86-17.

339 (b) Any person who is eligible for benefits under the
340 Mississippi Medicaid Law, Section 43-13-101 et seq., shall not be
341 eligible to receive benefits under Sections 41-86-5 through
342 41-86-17.

343 (c) A person who is without insurance coverage at the
344 time of application for the program and who meets the other
345 eligibility criteria in the plan shall be eligible to receive
346 covered benefits under the program, if federal approval is
347 obtained to allow eligibility with no waiting period of being
348 without insurance coverage. If federal approval is not obtained
349 for the preceding provision, the Division of Medicaid shall seek
350 federal approval to allow eligibility after the shortest waiting
351 period of being without insurance coverage for which approval can
352 be obtained. After federal approval is obtained to allow
353 eligibility after a certain waiting period of being without
354 insurance coverage, a person who has been without insurance
355 coverage for the approved waiting period and who meets the other
356 eligibility criteria in the plan shall be eligible to receive
357 covered benefits under the program. If the plan includes any
358 waiting period of being without insurance coverage before
359 eligibility, the State and School Employees Health Insurance
360 Management Board shall adopt regulations to provide exceptions to
361 the waiting period for families who have lost insurance coverage
362 for good cause or through no fault of their own.

363 (2) The eligibility of persons for covered benefits under
364 the program shall be determined annually by the same agency or
365 entity that determines eligibility under Section 43-13-115(9) and
366 shall cover twelve (12) continuous months under the program.



367 (3) There will be presumptive eligibility under this chapter
368 for children under nineteen (19) years of age, in accordance with
369 the following provisions:

370 (a) A child will be deemed to be presumptively eligible
371 for covered benefits and services under this chapter if a
372 qualified entity as defined under federal law (42 USCS Section
373 1396r-1a) determines, on the basis of preliminary information,
374 that the family income of the child does not exceed the applicable
375 income level of eligibility under the plan.

376 (b) A child will be presumptively eligible under this
377 chapter from the date that the qualified entity determines that
378 the child is presumptively eligible until the earlier of either:

379 (i) The date on which a determination is made with
380 respect to the eligibility of the child for covered benefits and
381 services under this chapter, or

382 (ii) The last day of the month following the month
383 in which presumptive eligibility is determined, if an application
384 has not been filed on behalf of the child by that day.

385 (c) For the period during which a child is
386 presumptively eligible under this chapter, the child will be
387 eligible to receive all covered benefits and services under this
388 chapter.

389 (d) If a child is determined to be presumptively
390 eligible under this chapter, the child's parent, guardian or
391 caretaker relative must submit a completed application for
392 assistance under the program no later than the last day of the
393 month following the month in which presumptive eligibility is
394 determined. The qualified entity shall inform the parent,
395 guardian or caretaker relative of this requirement at the time the
396 qualified entity makes the determination of presumptive
397 eligibility.

398 (e) The qualified entity shall notify the Division of
399 Medicaid of the determination of presumptive eligibility within



400 five (5) working days after the date on which the determination is
401 made.

402 (f) The Division of Medicaid shall provide qualified
403 entities with such forms as are necessary for an application to be
404 made on behalf of a child for eligibility under this chapter. The
405 Division of Medicaid shall make those application forms and the
406 application process itself as simple as possible.

407 **SECTION 3.** This act shall take effect and be in force from
408 and after July 1, 2002.

