

By: Senator(s) Carmichael, Burton

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2380

1 AN ACT TO AMEND SECTION 43-13-145, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE DIVISION OF MEDICAID TO APPLY FOR A WAIVER OF THE
3 FEDERAL UNIFORMITY REQUIREMENT OF THE PER BED ASSESSMENT FOR
4 NURSING FACILITIES; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-13-145, Mississippi Code of 1972, is
7 amended as follows:

8 43-13-145. (1) (a) Upon each nursing facility and each
9 intermediate care facility for the mentally retarded licensed by
10 the State of Mississippi, there is levied an assessment in the
11 amount of Four Dollars (\$4.00) per day for each licensed and/or
12 certified bed of the facility. The division shall apply for a
13 waiver from the United States Secretary of Health and Human
14 Services from the uniform requirement of said nursing facility bed
15 assessment to allow the grouping of nursing facility providers
16 into tiers and to apply a variable assessment based on the number
17 of Medicaid beds in the facility, which shall not be less than
18 Fifty Cents (\$.50) nor more than Four Dollars (\$4.00) per day for
19 each licensed and/or certified bed of the facility. The division
20 may apply for a waiver from the United States Secretary of Health
21 and Human Services to exempt nonprofit, public, charitable or
22 religious facilities from the assessment levied under this
23 subsection, and if a waiver is granted, those facilities shall be
24 exempt from any assessment levied under this subsection after the
25 date that the division receives notice that the waiver has been
26 granted.

27 (b) A nursing facility or intermediate care facility
28 for the mentally retarded is exempt from the assessment levied

29 under this subsection if the facility is operated under the
30 direction and control of:

31 (i) The United States Veterans Administration or
32 other agency or department of the United States government;

33 (ii) The State Veterans Affairs Board;

34 (iii) The University of Mississippi Medical
35 Center; or

36 (iv) A state agency or a state facility that
37 either provides its own state match through intergovernmental
38 transfer or certification of funds to the division.

39 (2) (a) Upon each psychiatric residential treatment
40 facility licensed by the State of Mississippi, there is levied an
41 assessment in the amount of Three Dollars (\$3.00) per day for each
42 licensed and/or certified bed of the facility.

43 (b) A psychiatric residential treatment facility is
44 exempt from the assessment levied under this subsection if the
45 facility is operated under the direction and control of:

46 (i) The United States Veterans Administration or
47 other agency or department of the United States government;

48 (ii) The University of Mississippi Medical Center;

49 or

50 (iii) A state agency or a state facility that
51 either provides its own state match through intergovernmental
52 transfer or certification of funds to the division.

53 (3) (a) Upon each hospital licensed by the State of
54 Mississippi, there is levied an assessment in the amount of One
55 Dollar and Fifty Cents (\$1.50) per day for each licensed inpatient
56 acute care bed of the hospital.

57 (b) A hospital is exempt from the assessment levied
58 under this subsection if the hospital is operated under the
59 direction and control of:

60 (i) The United States Veterans Administration or
61 other agency or department of the United States government;

62 (ii) The University of Mississippi Medical Center;
63 or

64 (iii) A state agency or a state facility that
65 either provides its own state match through intergovernmental
66 transfer or certification of funds to the division.

67 (4) Each health care facility that is subject to the
68 provisions of this section shall keep and preserve such suitable
69 books and records as may be necessary to determine the amount of
70 assessment for which it is liable under this section. The books
71 and records shall be kept and preserved for a period of not less
72 than five (5) years, and those books and records shall be open for
73 examination during business hours by the division, the State Tax
74 Commission, the Office of the Attorney General and the State
75 Department of Health.

76 (5) The assessment levied under this section shall be
77 collected by the division each month beginning on April 12, 2002.

78 (6) All assessments collected under this section shall be
79 deposited in the Medical Care Fund created by Section 43-13-143.

80 (7) The assessment levied under this section shall be in
81 addition to any other assessments, taxes or fees levied by law,
82 and the assessment shall constitute a debt due the State of
83 Mississippi from the time the assessment is due until it is paid.

84 (8) (a) If a health care facility that is liable for
85 payment of the assessment levied under this section does not pay
86 the assessment when it is due, the division shall give written
87 notice to the health care facility by certified or registered mail
88 demanding payment of the assessment within ten (10) days from the
89 date of delivery of the notice. If the health care facility
90 fails or refuses to pay the assessment after receiving the notice
91 and demand from the division, the division shall withhold from any
92 Medicaid reimbursement payments that are due to the health care
93 facility the amount of the unpaid assessment and a penalty of ten
94 percent (10%) of the amount of the assessment, plus the legal rate

95 of interest until the assessment is paid in full. If the health
96 care facility does not participate in the Medicaid program, the
97 division shall turn over to the Office of the Attorney General the
98 collection of the unpaid assessment by civil action. In any such
99 civil action, the Office of the Attorney General shall collect the
100 amount of the unpaid assessment and a penalty of ten percent (10%)
101 of the amount of the assessment, plus the legal rate of interest
102 until the assessment is paid in full.

103 (b) As an additional or alternative method for
104 collecting unpaid assessments under this section, if a health care
105 facility fails or refuses to pay the assessment after receiving
106 notice and demand from the division, the division may file a
107 notice of a tax lien with the circuit clerk of the county in which
108 the health care facility is located, for the amount of the unpaid
109 assessment and a penalty of ten percent (10%) of the amount of the
110 assessment, plus the legal rate of interest until the assessment
111 is paid in full. Immediately upon receipt of notice of the tax
112 lien for the assessment, the circuit clerk shall enter the notice
113 of the tax lien as a judgment upon the judgment roll and show in
114 the appropriate columns the name of the health care facility as
115 judgment debtor, the name of the division as judgment creditor,
116 the amount of the unpaid assessment, and the date and time of
117 enrollment. The judgment shall be valid as against mortgagees,
118 pledgees, entrusters, purchasers, judgment creditors and other
119 persons from the time of filing with the clerk. The amount of the
120 judgment shall be a debt due the State of Mississippi and remain a
121 lien upon the tangible property of the health care facility until
122 the judgment is satisfied. The judgment shall be the equivalent
123 of any enrolled judgment of a court of record and shall serve as
124 authority for the issuance of writs of execution, writs of
125 attachment or other remedial writs.

126 **SECTION 2.** This act shall take effect and be in force from
127 and after July 1, 2004.