

By: Senator(s) Burton

To: Insurance;
Appropriations

SENATE BILL NO. 2791

1 AN ACT TO REQUIRE HEALTH INSURANCE COVERAGE OF MEDICALLY
2 NECESSARY BARIATRIC SURGERY FOR TREATMENT OF CLINICALLY SEVERE
3 OBESITY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** (1) For purposes of this act:

6 (a) "Bariatric surgery" means Roux-en-Y gastric bypass
7 or biliopancreatic diversion, as defined by the National Institute
8 of Health, or other gastrointestinal surgery identified by the
9 National Institute of Health as effective for the treatment of
10 clinically severe obesity, which may include gastric banding
11 procedures if they are currently considered effective by the
12 National Institute of Health and are indicated by an insured's
13 specific medical condition.

14 (b) "Clinically severe obesity" means either a body
15 mass index more than forty (40) kilograms per meter squared, or a
16 body mass index between thirty-five (35) and forty (40) kilograms
17 per meter squared combined with a serious comorbid condition
18 including, but not limited to, diabetes or cardiopulmonary
19 conditions such as hypertension, severe sleep apnea or heart
20 disease. As used herein, body mass index equals weight in
21 kilograms divided by height per meter squared.

22 (c) When a physician deems the patient's surgery
23 "medically necessary" all indications above must be met in
24 addition to the consideration of long term costs of the patient's
25 condition without surgery.

26 (2) Notwithstanding any other provision of law to the
27 contrary, any individual, franchise, blanket or group health

28 insurance policy, medical service plan contract, hospital service
29 corporation contract, hospital and medical service corporation
30 contract, fraternal benefit society, health maintenance
31 organization, preferred provider organization, or managed care
32 organization which provides hospital, surgical, or medical expense
33 insurance based on a physician's recommendation of "medical
34 necessity" shall consider offering and make available coverage
35 under any such policy, contract or plan for "medically necessary"
36 bariatric surgery for the treatment of clinically severe obesity.

37 (3) The provisions of this section are applicable to all
38 health benefit policies, programs or contracts which are offered
39 by commercial insurance companies, nonprofit insurance companies,
40 health maintenance organizations, preferred provider organizations
41 and managed care organizations and which are entered into,
42 delivered, issued for delivery, amended, or renewed after January
43 1, 2006.

44 (4) Reimbursement for the "medically necessary" treatment of
45 clinically severe obesity by bariatric surgery shall be determined
46 according to the same formula by which charges are developed for
47 other medical and surgical procedures. Such coverage shall have
48 durational limits, dollar limits, deductibles, copayments and
49 coinsurance factors that are no less favorable than for other
50 types of major surgery for treatment of physical illness or
51 disease generally. Standards and criteria, including those
52 related to diet, used by insurers to approve or restrict access to
53 bariatric surgery for clinically severe obesity shall be based
54 upon current clinical guidelines recognized by the National
55 Institute of Health. Those standards may include the requirement
56 that an insured document that physician-supervised weight control
57 treatment has been ineffective in reducing the insured's weight
58 below the levels articulated for clinically severe obesity,
59 whether or not the policy, contract or plan provides coverage for
60 physician-supervised weight control treatment. The surgeons

61 contracted by the insurers to provide bariatric surgery for
62 clinically severe obesity shall have current experience in
63 bariatric surgery and shall meet the standards set forth by the
64 National Institute of Health, if any.

65 (5) Nothing in this section shall be construed to prohibit
66 any insurer from providing medical benefits greater than or more
67 favorable to the insured than the benefits established pursuant to
68 this section.

69 (6) The provisions of this section shall not apply to short
70 term travel policies, short term nonrenewable policies of not more
71 than six (6) months' duration, accident only policies, limited or
72 specific disease policies, contracts designed for issuance to
73 persons eligible for coverage under Title XVIII of the Social
74 Security Act, known as Medicare or any other similar coverage
75 under state or governmental plans.

76 **SECTION 2.** This act shall take effect and be in force from
77 and after July 1, 2005.