MISSISSIPPI LEGISLATURE REGULAR SESSION 2006

By: Representative Fleming

To: Insurance; Medicaid

HOUSE BILL NO. 9

AN ACT TO AMEND SECTION 83-41-409, MISSISSIPPI CODE OF 1972, TO AUTHORIZE PARTICIPATING PROVIDERS IN MANAGED CARE PLANS TO PRESCRIBE ANY DRUG THAT THE PROVIDER HAS DETERMINED TO BE THE MOST APPROPRIATE FOR THE PATIENT, WHETHER THE DRUG IS A BRAND NAME DRUG OR THE GENERIC EQUIVALENT DRUG; TO AUTHORIZE PARTICIPATING PROVIDERS TO PROHIBIT THE DISPENSING OF A GENERIC EQUIVALENT DRUG IN LIEU OF THE DRUG ORDERED BY THE PROVIDER; TO PROHIBIT MANAGED CARE PLANS FROM PROHIBITING OR RESTRICTING ANY PARTICIPATING PROVIDER FROM PRESCRIBING ANY BRAND NAME DRUG FOR WHICH A GENERIC EQUIVALENT DRUG IS AVAILABLE; TO PROHIBIT MANAGED CARE PLANS FROM INCLUDING ANY FINANCIAL INCENTIVE FOR A PARTICIPATING PROVIDER WHO PRESCRIBES GENERIC EQUIVALENT DRUGS INSTEAD OF BRAND NAME DRUGS, OR INCLUDING ANY FINANCIAL DISINCENTIVE FOR A PROVIDER WHO PRESCRIBES BRAND NAME DRUGS FOR WHICH GENERIC EQUIVALENT DRUGS ARE AVAILABLE; TO AMEND SECTION 83-41-415, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PROVISIONS OF THIS ACT SHALL APPLY TO ANY MANAGED CARE PLAN FOR MEDICAID PATIENTS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 83-41-409, Mississippi Code of 1972, is amended as follows:

83-41-409. (1) In order to be certified and recertified under this article, a managed care plan shall:

(a) Provide enrollees or other applicants with written information on the terms and conditions of coverage in easily understandable language including, but not limited to, information on the following:

(i) Coverage provisions, benefits, limitations, exclusions and restrictions on the use of any providers of care;

(ii) Summary of utilization review and quality assurance policies; and

(iii) Enrollee financial responsibility for copayments, deductibles and payments for out-of-plan services or supplies;

(b) Demonstrate that its provider network has providers of sufficient number throughout the service area to assure reasonable access to care with minimum inconvenience by plan enrollees;

(c) File a summary of the plan credentialing criteria and process and policies with the State Department of Insurance to be available upon request;

(d) Provide a participating provider with a copy of his/her individual profile if economic or practice profiles, or both, are used in the credentialing process upon request;

(e) When any provider application for participation is denied or contract is terminated, the reasons for denial or termination shall be reviewed by the managed care plan upon the request of the provider; and

(f) Establish procedures to ensure that all applicable state and federal laws designed to protect the confidentiality of medical records are followed.

(2) (a) Notwithstanding any provision in a managed care plan to the contrary, any participating provider in a managed care plan who is authorized to prescribe drug products shall be authorized, for any person enrolled in the plan or any dependent of the enrollee covered by the plan:

(i) To prescribe any drug product that the participating provider in his or her professional opinion has determined to be the most appropriate for the patient, whether the drug product is a brand name product or the generic equivalent of the brand name product; and

(ii) To prohibit the dispensing of a generic equivalent drug product in lieu of the drug product ordered by the participating provider, in accordance with the provisions of Sections 73-21-115 and 73-21-117.

(b) A managed care plan shall not:

(i) Directly or indirectly prohibit or restrict any participating provider in the managed care plan from prescribing any brand name drug product for which a generic equivalent drug product is available;

(ii) Include any financial incentive for a participating provider who prescribes generic equivalent drug products instead of brand name drug products; or

(iii) Include any financial disincentive for a participating provider who prescribes brand name drug products for which generic equivalent drug products are available.

SECTION 2. Section 83-41-415, Mississippi Code of 1972, is amended as follows:

83-41-415. Articles 7 and 9 do not apply to the Division of Medicaid in the Office of the Governor. However, the provisions of Section 83-41-409(2) shall apply to any managed care plan administered by the Division of Medicaid for Medicaid patients.

SECTION 3. This act shall take effect and be in force from and after July 1, 2006.