

By: Representatives Lott, Cummings, Moore,
Staples

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 1075

1 AN ACT TO PROVIDE THAT ANY PERSON WHO APPLIES FOR OR SEEKS TO
2 OBTAIN STATE-FUNDED SOCIAL SERVICES MUST BE A CITIZEN OR PERMANENT
3 RESIDENT OF THE UNITED STATES OR OTHERWISE BE LEGALLY AUTHORIZED
4 TO BE IN THE UNITED STATES BEFORE THE PERSON WILL BE ELIGIBLE TO
5 RECEIVE THE SERVICES; TO PROVIDE AN EXCEPTION FOR PERSONS WHO ARE
6 IN LIFE-THREATENING SITUATIONS; TO AMEND SECTIONS 43-13-115 AND
7 43-17-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF
8 THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) It is the policy of the State of Mississippi
11 that any person who receives any state-funded social services must
12 be a citizen or permanent resident of the United States or
13 otherwise be legally authorized to be in the United States, except
14 in life-threatening situations.

15 (2) As used in this section, the term "state social
16 services" means medical assistance under the Medicaid program,
17 assistance under the Temporary Assistance to Needy Families (TANF)
18 program, or any other social services that are funded in whole or
19 in part with state funds.

20 (3) Any person who applies for or seeks to obtain state
21 social services must be a citizen or permanent resident of the
22 United States or otherwise be legally authorized to be in the
23 United States, as provided under federal law or regulations,
24 before the person will be eligible to receive the services.
25 However, any person who does not meet the requirements of this
26 section who is in a life-threatening situation may receive any
27 state social services for which the person otherwise would be
28 eligible that are necessary to address the life-threatening
29 situation. State agencies shall require all persons who apply for
30 or seek to obtain state social services to provide official state

31 or federal documentation that verifies their status as a United
32 States citizen or permanent resident or as otherwise legally
33 authorized to be in the United States, in order to determine
34 whether the person is eligible under the requirements of this
35 section to receive the services.

36 **SECTION 2.** Section 43-13-115, Mississippi Code of 1972, is
37 amended as follows:

38 43-13-115. A. Recipients of Medicaid shall be the following
39 persons only:

40 (1) Those who are qualified for public assistance
41 grants under provisions of Title IV-A and E of the federal Social
42 Security Act, as amended, including those statutorily deemed to be
43 IV-A and low income families and children under Section 1931 of
44 the federal Social Security Act. For the purposes of this
45 paragraph (1) and paragraphs (8), (17) and (18) of this section,
46 any reference to Title IV-A or to Part A of Title IV of the
47 federal Social Security Act, as amended, or the state plan under
48 Title IV-A or Part A of Title IV, shall be considered as a
49 reference to Title IV-A of the federal Social Security Act, as
50 amended, and the state plan under Title IV-A, including the income
51 and resource standards and methodologies under Title IV-A and the
52 state plan, as they existed on July 16, 1996. The Department of
53 Human Services shall determine Medicaid eligibility for children
54 receiving public assistance grants under Title IV-E. The division
55 shall determine eligibility for low income families under Section
56 1931 of the federal Social Security Act and shall redetermine
57 eligibility for those continuing under Title IV-A grants.

58 (2) Those qualified for Supplemental Security Income
59 (SSI) benefits under Title XVI of the federal Social Security Act,
60 as amended, and those who are deemed SSI eligible as contained in
61 federal statute. The eligibility of individuals covered in this
62 paragraph shall be determined by the Social Security
63 Administration and certified to the Division of Medicaid.

64 (3) Qualified pregnant women who would be eligible for
65 Medicaid as a low income family member under Section 1931 of the
66 federal Social Security Act if her child were born. The
67 eligibility of the individuals covered under this paragraph shall
68 be determined by the division.

69 (4) [Deleted]

70 (5) A child born on or after October 1, 1984, to a
71 woman eligible for and receiving Medicaid under the state plan on
72 the date of the child's birth shall be deemed to have applied for
73 Medicaid and to have been found eligible for Medicaid under the
74 plan on the date of that birth, and will remain eligible for
75 Medicaid for a period of one (1) year so long as the child is a
76 member of the woman's household and the woman remains eligible for
77 Medicaid or would be eligible for Medicaid if pregnant. The
78 eligibility of individuals covered in this paragraph shall be
79 determined by the Division of Medicaid.

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

89 (7) Persons certified by the Division of Medicaid who
90 are patients in a medical facility (nursing home, hospital,
91 tuberculosis sanatorium or institution for treatment of mental
92 diseases), and who, except for the fact that they are patients in
93 that medical facility, would qualify for grants under Title IV,
94 Supplementary Security Income (SSI) benefits under Title XVI or
95 state supplements, and those aged, blind and disabled persons who
96 would not be eligible for Supplemental Security Income (SSI)

97 benefits under Title XVI or state supplements if they were not
98 institutionalized in a medical facility but whose income is below
99 the maximum standard set by the Division of Medicaid, which
100 standard shall not exceed that prescribed by federal regulation.

101 (8) Children under eighteen (18) years of age and
102 pregnant women (including those in intact families) who meet the
103 financial standards of the state plan approved under Title IV-A of
104 the federal Social Security Act, as amended. The eligibility of
105 children covered under this paragraph shall be determined by the
106 Division of Medicaid.

107 (9) Individuals who are:

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

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

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

120 The eligibility of individuals covered in (a), (b) and (c) of
121 this paragraph shall be determined by the division.

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

129 individuals under this paragraph shall be determined by the
130 Division of Medicaid.

131 (11) Until the end of the day on December 31, 2005,
132 individuals who are sixty-five (65) years of age or older or are
133 disabled as determined under Section 1614(a)(3) of the federal
134 Social Security Act, as amended, and whose income does not exceed
135 one hundred thirty-five percent (135%) of the nonfarm official
136 poverty level as defined by the Office of Management and Budget
137 and revised annually, and whose resources do not exceed those
138 established by the Division of Medicaid. The eligibility of
139 individuals covered under this paragraph shall be determined by
140 the Division of Medicaid. After December 31, 2005, only those
141 individuals covered under the 1115(c) Healthier Mississippi waiver
142 will be covered under this category.

143 Any individual who applied for Medicaid during the period
144 from July 1, 2004, through March 31, 2005, who otherwise would
145 have been eligible for coverage under this paragraph (11) if it
146 had been in effect at the time the individual submitted his or her
147 application and is still eligible for coverage under this
148 paragraph (11) on March 31, 2005, shall be eligible for Medicaid
149 coverage under this paragraph (11) from March 31, 2005, through
150 December 31, 2005. The division shall give priority in processing
151 the applications for those individuals to determine their
152 eligibility under this paragraph (11).

153 (12) Individuals who are qualified Medicare
154 beneficiaries (QMB) entitled to Part A Medicare as defined under
155 Section 301, Public Law 100-360, known as the Medicare
156 Catastrophic Coverage Act of 1988, and whose income does not
157 exceed one hundred percent (100%) of the nonfarm official poverty
158 level as defined by the Office of Management and Budget and
159 revised annually.

160 The eligibility of individuals covered under this paragraph
161 shall be determined by the Division of Medicaid, and those

162 individuals determined eligible shall receive Medicare
163 cost-sharing expenses only as more fully defined by the Medicare
164 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
165 1997.

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

171 Eligibility for Medicaid benefits is limited to full payment of
172 Medicare Part B premiums.

173 (b) Individuals entitled to Part A of Medicare,
174 with income above one hundred twenty percent (120%), but less than
175 one hundred thirty-five percent (135%) of the federal poverty
176 level, and not otherwise eligible for Medicaid Eligibility for
177 Medicaid benefits is limited to full payment of Medicare Part B
178 premiums. The number of eligible individuals is limited by the
179 availability of the federal capped allocation at one hundred
180 percent (100%) of federal matching funds, as more fully defined in
181 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 assistance under Title IV-A of the federal Social Security Act, as
204 amended, because of increased income from or hours of employment
205 of the caretaker relative or because of the expiration of the
206 applicable earned income disregards, who were eligible for
207 Medicaid for at least three (3) of the six (6) months preceding
208 the month in which the ineligibility begins, shall be eligible for
209 Medicaid for up to twelve (12) months. The eligibility of the
210 individuals covered under this paragraph shall be determined by
211 the division.

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

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 (23) Children certified by the Mississippi Department
271 of Human Services for whom the state and county departments of
272 human services have custody and financial responsibility who are
273 in foster care on their eighteenth birthday as reported by the
274 Mississippi Department of Human Services shall be certified
275 Medicaid eligible by the Division of Medicaid until their
276 twenty-first birthday.

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

287 (25) The division shall apply to the Centers for
288 Medicare and Medicaid Services (CMS) for any necessary waivers to
289 provide services to individuals who are sixty-five (65) years of
290 age or older or are disabled as determined under Section
291 1614(a)(3) of the federal Social Security Act, as amended, and

292 whose income does not exceed one hundred thirty-five percent
293 (135%) of the nonfarm official poverty level as defined by the
294 Office of Management and Budget and revised annually, and whose
295 resources do not exceed those established by the Division of
296 Medicaid, and who are not otherwise covered by Medicare. Nothing
297 contained in this paragraph (25) shall entitle an individual to
298 benefits. The eligibility of individuals covered under this
299 paragraph shall be determined by the Division of Medicaid.

300 (26) The division shall apply to the Centers for
301 Medicare and Medicaid Services (CMS) for any necessary waivers to
302 provide services to individuals who are sixty-five (65) years of
303 age or older or are disabled as determined under Section
304 1614(a)(3) of the federal Social Security Act, as amended, who are
305 end stage renal disease patients on dialysis, cancer patients on
306 chemotherapy or organ transplant recipients on anti-rejection
307 drugs, whose income does not exceed one hundred thirty-five
308 percent (135%) of the nonfarm official poverty level as defined by
309 the Office of Management and Budget and revised annually, and
310 whose resources do not exceed those established by the division.
311 Nothing contained in this paragraph (26) shall entitle an
312 individual to benefits. The eligibility of individuals covered
313 under this paragraph shall be determined by the Division of
314 Medicaid.

315 (27) Individuals who are entitled to Medicare Part D
316 and whose income does not exceed one hundred fifty percent (150%)
317 of the nonfarm official poverty level as defined by the Office of
318 Management and Budget and revised annually. Eligibility for
319 payment of the Medicare Part D subsidy under this paragraph shall
320 be determined by the division.

321 B. Before a person will be eligible for Medicaid under this
322 article, the person must be a citizen or permanent resident of the
323 United States or otherwise be legally authorized to be in the
324 United States, as provided in Section 1 of this act.

325 C. The division shall redetermine eligibility for all
326 categories of recipients described in each paragraph of this
327 section not less frequently than required by federal law.

328 **SECTION 3.** Section 43-17-1, Mississippi Code of 1972, is
329 amended as follows:

330 43-17-1. (1) The State of Mississippi * * * accepts all of
331 the mandatory provisions and benefits, with the exception of those
332 provisions under which the state may exercise its options, of
333 Title I of an act passed by the Senate and House of
334 Representatives of the United States of America, in Congress
335 assembled, entitled: "The Personal Responsibility and Work
336 Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and
337 known as the Temporary Assistance to Needy Families (TANF)
338 program.

339 (2) The Department of Human Services shall have all
340 necessary authority to cooperate with the federal government in
341 the administration of Public Law 104-193 and all subsequent
342 federal amendments thereto, to administer any legislation pursuant
343 thereto enacted by the State of Mississippi, and to administer the
344 funds provided by the federal government and the State of
345 Mississippi under the provisions of Section 43-17-1 et seq., for
346 providing temporary assistance for needy families with minor
347 children. The Department of Human Services shall have full
348 authority to formulate state plans consistent with state law as
349 necessary to administer and operate federal grant funds which
350 provide temporary assistance for needy families with minor
351 children under Title IV-A of the federal Social Security Act. The
352 Department of Human Services shall identify in any state plan
353 submitted to implement the TANF program those requirements or
354 restrictions, including persons excluded from program
355 participation which are required under federal law, and those
356 program requirements or restrictions which the federal law
357 authorizes but does not require.

358 (3) Any funds received by the State of Mississippi under the
359 provisions of Public Law 104-193 shall be subject to appropriation
360 by the Legislature and consistent with the terms and conditions
361 required under such appropriation.

362 (4) The purpose of the Mississippi Temporary Assistance to
363 Needy Families (TANF) program shall be to:

364 (a) Provide assistance to needy families so that
365 children may be cared for in their own homes or in the homes of
366 relatives when such care is beneficial and may be monitored on a
367 random basis by the Department of Human Services or the State
368 Department of Health;

369 (b) End the dependence of needy families on government
370 benefits by promoting job preparation, work and marriage through,
371 among other things, job placement, job training and job retention;

372 (c) Prevent and reduce the incidence of out-of-wedlock
373 pregnancies and establish annual numerical goals for preventing
374 and reducing the incidence of these pregnancies;

375 (d) Encourage the formation and maintenance of
376 two-parent families; and

377 (e) Prevent program fraud and abuse.

378 (5) The Department of Human Services shall develop outcome
379 and output indicators for each program established under the
380 authority of this section. These measures shall provide
381 legislators and administrators with information which measures the
382 success or failure of the department in implementing the programs
383 implemented under the authority of this section. The department
384 shall annually report to the Legislature the outputs and outcomes
385 of these programs, with the first report due by December 15, 1997.
386 Such reports shall include recommendations for making programs
387 more effective or efficient which can be effected in accordance
388 with federal law.

389 (6) Assistance may be granted under this chapter to any
390 dependent child and a caretaker relative who are living in a

391 suitable family home meeting the standards of care and health and
392 work requirements fixed by the laws of this state, and the rules
393 and regulations of the State Department of Human Services.

394 (7) Before a person will be eligible for assistance under
395 this chapter, the person must be a citizen or permanent resident
396 of the United States or otherwise be legally authorized to be in
397 the United States, as provided in Section 1 of this act.

398 **SECTION 4.** This act shall take effect and be in force from
399 and after July 1, 2006.