

By: Representatives Holland, Reynolds

To: Public Health and Human Services; Medicaid

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1379

1 AN ACT TO CODIFY NEW SECTION 43-13-121.1, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT THE DIVISION OF MEDICAID SHALL IMPLEMENT A
3 "MONEY FOLLOWS THE PERSON" PROCESS BY WHICH FUNDING FOR NURSING
4 FACILITY SERVICES FOR MEDICAID-ELIGIBLE BENEFICIARIES MAY BE USED
5 TO PAY FOR HOME- AND COMMUNITY-BASED WAIVER SERVICES FOR THOSE
6 NURSING FACILITY RESIDENTS WHO CHOOSE THOSE SERVICES; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** The following shall be codified as Section
10 43-13-121.1, Mississippi Code of 1972:

11 43-13-121.1. (1) It is the intent of the Legislature to
12 implement a "money follows the person" process by which a portion
13 of the money used to cover the cost of nursing facility services
14 for Medicaid-eligible beneficiaries may be transferred to fund
15 home- and community-based waiver services through the Elderly and
16 Disabled Waiver, administered by the Division of Medicaid, and the
17 Independent Living Waiver and the Traumatic Brain Injury/Spinal
18 Cord Injury Waiver, administered by the Department of
19 Rehabilitation Services.

20 (2) Notwithstanding any other state law, the Executive
21 Director of the Division of Medicaid is authorized to transfer
22 funds allocated for nursing facility services for
23 Medicaid-eligible nursing facility residents to cover the cost of
24 home- and community-based waiver services if the nursing facility
25 resident meets the eligibility criteria for either the Elderly and
26 Disabled Waiver, the Independent Living Waiver, or the Traumatic
27 Brain Injury/Spinal Cord Injury Waiver program and the resident
28 chooses to receive those services.

29 (3) The authority of the executive director of the division
30 to transfer funds from nursing facility services shall apply to
31 home- and community-based waiver programs administered by the
32 division and the Department of Rehabilitation Services. These
33 provisions shall not be applicable to the Department of Mental
34 Health, any facility operated by the Department of Mental Health,
35 or any current or future waiver program operated by the Department
36 of Mental Health including, but not be limited to, home- and
37 community-based waiver programs.

38 (4) Under the "money follows the person" process, the
39 executive director of the division shall transfer funds to the
40 appropriate home- and community-based waiver program administering
41 agency to cover the cost of services provided through the Elderly
42 and Disabled Waiver, the Independent Living Waiver, and the
43 Traumatic Brain Injury/Spinal Cord Injury Waiver programs for
44 Medicaid-eligible nursing facility residents who choose to leave
45 the nursing facility and receive home- and community-based waiver
46 services. The executive director of the division shall ensure
47 that the amount transferred under this section is redirected to
48 the appropriate home- and community-based waiver program in an
49 amount sufficient to provide waiver services to each nursing
50 facility resident upon his or her discharge from the nursing
51 facility.

52 (5) The number of nursing facility residents who receive
53 home- and community-based waiver services through the "money
54 follows the person" process will not count against the total
55 number of individuals previously approved by the Centers for
56 Medicare and Medicaid Services (CMS) to receive home- and
57 community-based services through the Elderly and Disabled Waiver,
58 the Independent Living Waiver, or the Traumatic Brain
59 Injury/Spinal Cord Injury Waiver programs. In addition, the
60 number of nursing facility residents who receive services as a
61 result of the "money follows the person" process shall not count

62 against any additional slots approved by CMS and authorized by the
63 state as a result of prior litigation settlements reached by the
64 state. Instead, the division shall request CMS to amend the
65 Elderly and Disabled Waiver, the Independent Living Waiver, and
66 the Traumatic Brain Injury/Spinal Cord Injury Waiver, as
67 necessary, to obtain authorization from CMS to specifically serve
68 this group of former nursing facility residents through the "money
69 follows the person" process.

70 (6) Rules and regulations pertaining to the implementation
71 of the process shall be written and promulgated by the division no
72 later than September 1, 2006. Two months before implementation of
73 the "money follows the person" process, the executive director of
74 the division shall send a letter to all Medicaid-eligible nursing
75 facility residents informing them of the option to obtain home-
76 and community-based waiver services through this process and
77 providing them with contact information for applying for home- and
78 community-based waiver services.

79 (7) Before implementing the "money follows the person"
80 process, the division, in consultation with the Department of
81 Rehabilitation Services, shall develop and implement a
82 preadmission screening process for nursing facility services that
83 will inform individuals seeking nursing facility services of the
84 feasible alternative services to nursing facility admission
85 available through home- and community-based waiver services and
86 allow those individuals the opportunity to make an informed choice
87 between institutional and community-based waiver services.

88 (8) Consistent with federal requirements, the division shall
89 assure that necessary safeguards are taken to protect the health
90 and safety of nursing facility residents who choose to receive
91 home- and community-based waiver services through the "money
92 follows the person" process. This assurance must include a formal
93 system by which:

94 (a) The division or its designee monitors that all
95 provider standards and health and welfare protections are
96 continuously met; and

97 (b) Plans of care for waiver participants are
98 periodically reviewed to ensure that the services furnished are
99 consistent with the identified needs of waiver participants; and

100 (c) All deficiencies identified through this quality
101 monitoring system are addressed in an appropriate and timely
102 manner, consistent with the severity and nature of the
103 deficiencies.

104 (9) There shall be a Money Follows the Person (MFP) Advisory
105 Committee to make recommendations and advise the division with
106 regard to the process mandated in this act, by which funding for
107 nursing facility services for Medicaid-eligible beneficiaries may
108 be used to pay for home- and community-based waiver services for
109 those nursing facility residents who choose to receive those
110 services. The committee shall be composed of the following
111 individuals:

112 (a) The respective chairmen of the House Public Health
113 and Human Services Committee and the Senate Public Health and
114 Welfare Committee;

115 (b) One (1) member of the House of Representatives
116 appointed by the Speaker of the House, and one (1) member of the
117 Senate appointed by the Lieutenant Governor;

118 (c) The executive directors of the State Department of
119 Mental Health and of the State Department of Rehabilitation
120 Services;

121 (d) One (1) member each appointed by the Speaker of the
122 House and the Lieutenant Governor, from among the membership of
123 any recognized statewide association representing the concerns of
124 the nursing facility owners and managers; and

125 (e) One (1) member each appointed by the Chairman of
126 the House Public Health and Human Services Committee and the

127 Chairman of the Senate Public Health and Welfare Committee, from
128 among members of the community representing the concerns of
129 individuals with disabilities.

130 (10) The executive director of the division shall report to
131 the Attorney General the name and location of individuals who have
132 transitioned from nursing facilities to the Elderly and Disabled
133 Waiver, the Independent Living Waiver, and the Traumatic Brain
134 Injury/Spinal Cord Injury Waiver programs. The director shall
135 furnish, to each individual making such a transition and to the
136 person who will be responsible for providing home- and
137 community-based waiver services to the individual, the telephone
138 number of the Attorney General's Office and a copy of the
139 Mississippi Vulnerable Adults Act contained in Sections 43-47-1
140 through 43-47-37, with particular emphasis on the penalties
141 imposed under that act. The Attorney General is authorized to
142 designate members of his office to initiate follow-up visits with
143 those individuals who have made such a transition.

144 (11) The executive director of the division shall submit an
145 annual report by January 1 of each year to the Legislature and to
146 the MFP Advisory Committee concerning:

147 (a) The number of individuals who have transitioned
148 from nursing facilities to the Elderly and Disabled Waiver, the
149 Independent Living Waiver, and the Traumatic Brain Injury/Spinal
150 Cord Injury Waiver programs;

151 (b) The number of individuals in nursing facilities who
152 have indicated that they want to return to the community; and

153 (c) The number of individuals on referral lists for the
154 Elderly and Disabled Waiver, the Independent Living Waiver, and
155 the Traumatic Brain Injury/Spinal Cord Injury Waiver programs.

156 **SECTION 2.** This act shall take effect and be in force from
157 and after its passage.