By: Representative Clark

To: Medicaid; Appropriations A

HOUSE BILL NO. 103

1 AN ACT TO DIRECT THE GOVERNOR AND THE DIVISION OF MEDICAID TO
2 ENTER INTO NEGOTIATIONS WITH THE FEDERAL GOVERNMENT TO OBTAIN A
3 WAIVER OF APPLICABLE PROVISIONS OF THE MEDICAID LAWS AND
4 REGULATIONS TO CREATE A PLAN TO ALLOW THE EXPANSION OF MEDICAID
5 COVERAGE IN MISSISSIPPI; TO SPECIFY THE PROVISIONS THAT THE
6 GOVERNOR AND THE DIVISION SHALL SEEK TO HAVE INCLUDED IN THE
7 WAIVER PLAN; TO PROVIDE THAT IF A WAIVER IS OBTAINED TO ALLOW THE
8 EXPANSION OF MEDICAID COVERAGE, THE DIVISION SHALL AMEND THE STATE
9 PLAN TO INCLUDE THE PROVISIONS AUTHORIZED IN THE WAIVER AND SHALL
10 BEGIN IMPLEMENTING THE PLAN AUTHORIZED BY THE WAIVER; TO AMEND
11 SECTION 43-13-115, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
12 PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** (1) The Governor and the Division of Medicaid
15 shall enter into negotiations with the Centers for Medicare and
16 Medicaid Services (CMS) to obtain a waiver of applicable
17 provisions of the Medicaid laws and regulations under Section 1115
18 of the federal Social Security Act to create a plan to allow the
19 expansion of Medicaid coverage in Mississippi, which contains the
20 following provisions:

21 (a) **Overview.** (i) Private market-based health
22 coverage will be provided to adults with incomes of not more than
23 one hundred thirty-eight percent (138%) of Federal Poverty Level

24 (FPL). Most of these adults will be in working families who are
25 not offered affordable coverage options by their employer and earn
26 too much to qualify for Medicaid.

27 (ii) Newly eligible adults will have at least two
28 (2) Qualified Health Plans (QHP) offered by insurance carriers
29 contracting with the state.

30 (iii) Cost-sharing will be required for enrollees
31 with incomes of not less than fifty percent (50%) and not more
32 than one hundred thirty-eight percent (138%) of the FPL (not
33 greater than those allowable under current law), which can be
34 reduced by participating in specified healthy behavior activities.

35 (iv) The Mississippi Healthy Living Account will
36 be created, and enrollees with incomes of not less than fifty
37 percent (50%) and not more than one hundred thirty-eight percent
38 (138%) of the FPL will be required to make income-based
39 contributions to health savings accounts. Enrollees cannot lose
40 or be denied Medicaid eligibility, be denied health plan
41 enrollment, or be denied access to services, and providers may not
42 deny services for failure to pay copays or premiums.

43 (b) **Duration.** The plan will automatically end if the
44 federal contribution rate for this expanded Medicaid coverage
45 falls below ninety percent (90%).

46 (c) **Coverage Groups.** The groups that will be covered
47 are:

48 (i) Newly eligible adults without dependent
49 children, who are nineteen (19) through sixty-four (64) years of
50 age with incomes of not more than one hundred thirty-eight percent
51 (138%) of the FPL;
52 (ii) Newly eligible parents who are nineteen (19)
53 through sixty-four (64) years of age with incomes more than
54 twenty-two percent (22%) and not more than one hundred
55 thirty-eight percent (138%) of the FPL; and
56 (iii) Parents with incomes of not more than
57 twenty-two percent (22%) of the FPL will be transitioned from
58 traditional Medicaid to the new plan.
59 (d) **Premiums.** The state will use Medicaid dollars to
60 pay monthly premiums directly to QHPs. Enrollees will not be
61 responsible for the premium but will be responsible to make
62 cost-sharing contributions.
63 (e) **Qualified Health Plan Choice/Benefits.** (i)
64 Enrollees will choose between at least two (2) silver level
65 marketplace QHPs. If enrollees do not choose a plan, they will be
66 automatically assigned to one (1) plan. The state must ensure
67 that beneficiaries authorize auto-assignment to a plan.
68 (ii) Enrollees will have access to at least one
69 (1) QHP that contracts with at least one (1) Federally Qualified
70 Health Center (FQHC).
71 (f) **Health Savings Account/Cost-Sharing.** (i) The
72 Mississippi Healthy Living Account will be established, which is a

73 health savings account for individuals with incomes of not less
74 than fifty percent (50%) and not more than one hundred
75 thirty-eight percent (138%) of the FPL. Contributions to the
76 healthy living account will be used to pay individuals' copays and
77 to meet other cost-sharing requirements. Enrollees will make
78 quarterly contributions to their account.

79 (ii) Cost-sharing obligations will be based on the
80 enrollee's prior six (6) months of copays, billed at the end of
81 each quarter. No cost-sharing will be required for the first six
82 (6) months of enrollment. Cost-sharing will be paid into health
83 accounts and can be reduced through compliance with healthy
84 behaviors.

85 (iii) Cost-sharing for enrollees with incomes of
86 not less than fifty percent (50%) and less than one hundred
87 percent (100%) of the FPL will be capped at two percent (2%) of
88 their income, and cost-sharing for enrollees with incomes of not
89 less than one hundred percent (100%) and not more than one hundred
90 thirty-eight percent (138%) of the FPL will be capped at five
91 percent (5%) of their income.

92 (iv) Cost-sharing will not be administered at the
93 point of service. Enrollees will make their required contribution
94 to their health savings account. The account administrator will
95 make required payments to the enrollee's provider.

96 (v) Healthy living accounts and healthy behavior
97 protocols will be developed by the state and submitted to CMS for
98 approval.
99 (g) **Enrollment Process.** The Medicaid enrollment
100 process will be modernized by implementing a data-sharing
101 initiative commonly called "Fast-Track," which will transition
102 thousands of currently eligible parents off of traditional
103 Medicaid and to the private insurance market.
104 (2) If the Governor and the Division of Medicaid are
105 successful in obtaining a Section 1115 waiver to allow the
106 expansion of Medicaid coverage in Mississippi, the division shall
107 amend the state plan to include the provisions authorized in the
108 waiver, and shall begin implementing the plan authorized by the
109 waiver after receiving CMS approval of the state plan amendment.
110 **SECTION 2.** Section 43-13-115, Mississippi Code of 1972, is
111 amended as follows:
112 43-13-115. Recipients of Medicaid shall be the following
113 persons only:
114 (1) Those who are qualified for public assistance grants
115 under provisions of Title IV-A and E of the federal Social
116 Security Act, as amended, including those statutorily deemed to be
117 IV-A and low income families and children under Section 1931 of
118 the federal Social Security Act. For the purposes of this
119 paragraph (1) and paragraphs (8), (17) and (18) of this section,
120 any reference to Title IV-A or to Part A of Title IV of the

121 federal Social Security Act, as amended, or the state plan under
122 Title IV-A or Part A of Title IV, shall be considered as a
123 reference to Title IV-A of the federal Social Security Act, as
124 amended, and the state plan under Title IV-A, including the income
125 and resource standards and methodologies under Title IV-A and the
126 state plan, as they existed on July 16, 1996. The Department of
127 Human Services shall determine Medicaid eligibility for children
128 receiving public assistance grants under Title IV-E. The division
129 shall determine eligibility for low income families under Section
130 1931 of the federal Social Security Act and shall redetermine
131 eligibility for those continuing under Title IV-A grants.

132 (2) Those qualified for Supplemental Security Income (SSI)
133 benefits under Title XVI of the federal Social Security Act, as
134 amended, and those who are deemed SSI eligible as contained in
135 federal statute. The eligibility of individuals covered in this
136 paragraph shall be determined by the Social Security
137 Administration and certified to the Division of Medicaid.

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

143 (4) [Deleted]

144 (5) A child born on or after October 1, 1984, to a woman
145 eligible for and receiving Medicaid under the state plan on the

146 date of the child's birth shall be deemed to have applied for
147 Medicaid and to have been found eligible for Medicaid under the
148 plan on the date of that birth, and will remain eligible for
149 Medicaid for a period of one (1) year so long as the child is a
150 member of the woman's household and the woman remains eligible for
151 Medicaid or would be eligible for Medicaid if pregnant. The
152 eligibility of individuals covered in this paragraph shall be
153 determined by the Division of Medicaid.
154 (6) Children certified by the State Department of Human
155 Services to the Division of Medicaid of whom the state and county
156 departments of human services have custody and financial
157 responsibility, and children who are in adoptions subsidized in
158 full or part by the Department of Human Services, including
159 special needs children in non-Title IV-E adoption assistance, who
160 are approvable under Title XIX of the Medicaid program. The
161 eligibility of the children covered under this paragraph shall be
162 determined by the State Department of Human Services.
163 (7) Persons certified by the Division of Medicaid who are
164 patients in a medical facility (nursing home, hospital,
165 tuberculosis sanatorium or institution for treatment of mental
166 diseases), and who, except for the fact that they are patients in
167 that medical facility, would qualify for grants under Title IV,
168 Supplementary Security Income (SSI) benefits under Title XVI or
169 state supplements, and those aged, blind and disabled persons who
170 would not be eligible for Supplemental Security Income (SSI)

171 benefits under Title XVI or state supplements if they were not
172 institutionalized in a medical facility but whose income is below
173 the maximum standard set by the Division of Medicaid, which
174 standard shall not exceed that prescribed by federal regulation.
175 (8) Children under eighteen (18) years of age and pregnant
176 women (including those in intact families) who meet the financial
177 standards of the state plan approved under Title IV-A of the
178 federal Social Security Act, as amended. The eligibility of
179 children covered under this paragraph shall be determined by the
180 Division of Medicaid.
181 (9) Individuals who are:
182 (a) Children born after September 30, 1983, who have
183 not attained the age of nineteen (19), with family income that
184 does not exceed one hundred percent (100%) of the nonfarm official
185 poverty level;
186 (b) Pregnant women, infants and children who have not
187 attained the age of six (6), with family income that does not
188 exceed one hundred thirty-three percent (133%) of the federal
189 poverty level; and
190 (c) Pregnant women and infants who have not attained
191 the age of one (1), with family income that does not exceed one
192 hundred eighty-five percent (185%) of the federal poverty level.
193 The eligibility of individuals covered in (a), (b) and (c) of
194 this paragraph shall be determined by the division.

195 (10) Certain disabled children age eighteen (18) or under
196 who are living at home, who would be eligible, if in a medical
197 institution, for SSI or a state supplemental payment under Title
198 XVI of the federal Social Security Act, as amended, and therefore
199 for Medicaid under the plan, and for whom the state has made a
200 determination as required under Section 1902(e)(3)(b) of the
201 federal Social Security Act, as amended. The eligibility of
202 individuals under this paragraph shall be determined by the
203 Division of Medicaid.
204 (11) Until the end of the day on December 31, 2005,
205 individuals who are sixty-five (65) years of age or older or are
206 disabled as determined under Section 1614(a)(3) of the federal
207 Social Security Act, as amended, and whose income does not exceed
208 one hundred thirty-five percent (135%) of the nonfarm official
209 poverty level as defined by the Office of Management and Budget
210 and revised annually, and whose resources do not exceed those
211 established by the Division of Medicaid. The eligibility of
212 individuals covered under this paragraph shall be determined by
213 the Division of Medicaid. After December 31, 2005, only those
214 individuals covered under the 1115(c) Healthier Mississippi waiver
215 will be covered under this category.
216 Any individual who applied for Medicaid during the period
217 from July 1, 2004, through March 31, 2005, who otherwise would
218 have been eligible for coverage under this paragraph (11) if it
219 had been in effect at the time the individual submitted his or her

220 application and is still eligible for coverage under this
221 paragraph (11) on March 31, 2005, shall be eligible for Medicaid
222 coverage under this paragraph (11) from March 31, 2005, through
223 December 31, 2005. The division shall give priority in processing
224 the applications for those individuals to determine their
225 eligibility under this paragraph (11).

226 (12) Individuals who are qualified Medicare beneficiaries
227 (QMB) entitled to Part A Medicare as defined under Section 301,
228 Public Law 100-360, known as the Medicare Catastrophic Coverage
229 Act of 1988, and whose income does not exceed one hundred percent
230 (100%) of the nonfarm official poverty level as defined by the
231 Office of Management and Budget and revised annually.

232 The eligibility of individuals covered under this paragraph
233 shall be determined by the Division of Medicaid, and those
234 individuals determined eligible shall receive Medicare
235 cost-sharing expenses only as more fully defined by the Medicare
236 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
237 1997.

238 (13) (a) Individuals who are entitled to Medicare Part A as
239 defined in Section 4501 of the Omnibus Budget Reconciliation Act
240 of 1990, and whose income does not exceed one hundred twenty
241 percent (120%) of the nonfarm official poverty level as defined by
242 the Office of Management and Budget and revised annually.
243 Eligibility for Medicaid benefits is limited to full payment of
244 Medicare Part B premiums.

245 (b) Individuals entitled to Part A of Medicare, with
246 income above one hundred twenty percent (120%), but less than one
247 hundred thirty-five percent (135%) of the federal poverty level,
248 and not otherwise eligible for Medicaid. Eligibility for Medicaid
249 benefits is limited to full payment of Medicare Part B premiums.
250 The number of eligible individuals is limited by the availability
251 of the federal capped allocation at one hundred percent (100%) of
252 federal matching funds, as more fully defined in the Balanced
253 Budget Act of 1997.
254 The eligibility of individuals covered under this paragraph
255 shall be determined by the Division of Medicaid.
256 (14) [Deleted]
257 (15) Disabled workers who are eligible to enroll in Part A
258 Medicare as required by Public Law 101-239, known as the Omnibus
259 Budget Reconciliation Act of 1989, and whose income does not
260 exceed two hundred percent (200%) of the federal poverty level as
261 determined in accordance with the Supplemental Security Income
262 (SSI) program. The eligibility of individuals covered under this
263 paragraph shall be determined by the Division of Medicaid and
264 those individuals shall be entitled to buy-in coverage of Medicare
265 Part A premiums only under the provisions of this paragraph (15).
266 (16) In accordance with the terms and conditions of approved
267 Title XIX waiver from the United States Department of Health and
268 Human Services, persons provided home- and community-based
269 services who are physically disabled and certified by the Division

270 of Medicaid as eligible due to applying the income and deeming
271 requirements as if they were institutionalized.
272 (17) In accordance with the terms of the federal Personal
273 Responsibility and Work Opportunity Reconciliation Act of 1996
274 (Public Law 104-193), persons who become ineligible for assistance
275 under Title IV-A of the federal Social Security Act, as amended,
276 because of increased income from or hours of employment of the
277 caretaker relative or because of the expiration of the applicable
278 earned income disregards, who were eligible for Medicaid for at
279 least three (3) of the six (6) months preceding the month in which
280 the ineligibility begins, shall be eligible for Medicaid for up to
281 twelve (12) months. The eligibility of the individuals covered
282 under this paragraph shall be determined by the division.
283 (18) Persons who become ineligible for assistance under
284 Title IV-A of the federal Social Security Act, as amended, as a
285 result, in whole or in part, of the collection or increased
286 collection of child or spousal support under Title IV-D of the
287 federal Social Security Act, as amended, who were eligible for
288 Medicaid for at least three (3) of the six (6) months immediately
289 preceding the month in which the ineligibility begins, shall be
290 eligible for Medicaid for an additional four (4) months beginning
291 with the month in which the ineligibility begins. The eligibility
292 of the individuals covered under this paragraph shall be
293 determined by the division.

294 (19) Disabled workers, whose incomes are above the Medicaid
295 eligibility limits, but below two hundred fifty percent (250%) of
296 the federal poverty level, shall be allowed to purchase Medicaid
297 coverage on a sliding fee scale developed by the Division of
298 Medicaid.

299 (20) Medicaid eligible children under age eighteen (18)
300 shall remain eligible for Medicaid benefits until the end of a
301 period of twelve (12) months following an eligibility
302 determination, or until such time that the individual exceeds age
303 eighteen (18).

304 (21) Women of childbearing age whose family income does not
305 exceed one hundred eighty-five percent (185%) of the federal
306 poverty level. The eligibility of individuals covered under this
307 paragraph (21) shall be determined by the Division of Medicaid,
308 and those individuals determined eligible shall only receive
309 family planning services covered under Section 43-13-117(13) and
310 not any other services covered under Medicaid. However, any
311 individual eligible under this paragraph (21) who is also eligible
312 under any other provision of this section shall receive the
313 benefits to which he or she is entitled under that other
314 provision, in addition to family planning services covered under
315 Section 43-13-117(13).

316 The Division of Medicaid shall apply to the United States
317 Secretary of Health and Human Services for a federal waiver of the
318 applicable provisions of Title XIX of the federal Social Security

319 Act, as amended, and any other applicable provisions of federal
320 law as necessary to allow for the implementation of this paragraph
321 (21). The provisions of this paragraph (21) shall be implemented
322 from and after the date that the Division of Medicaid receives the
323 federal waiver.

324 (22) Persons who are workers with a potentially severe
325 disability, as determined by the division, shall be allowed to
326 purchase Medicaid coverage. The term "worker with a potentially
327 severe disability" means a person who is at least sixteen (16)
328 years of age but under sixty-five (65) years of age, who has a
329 physical or mental impairment that is reasonably expected to cause
330 the person to become blind or disabled as defined under Section
331 1614(a) of the federal Social Security Act, as amended, if the
332 person does not receive items and services provided under
333 Medicaid.

334 The eligibility of persons under this paragraph (22) shall be
335 conducted as a demonstration project that is consistent with
336 Section 204 of the Ticket to Work and Work Incentives Improvement
337 Act of 1999, Public Law 106-170, for a certain number of persons
338 as specified by the division. The eligibility of individuals
339 covered under this paragraph (22) shall be determined by the
340 Division of Medicaid.

341 (23) Children certified by the Mississippi Department of
342 Human Services for whom the state and county departments of human
343 services have custody and financial responsibility who are in

344 foster care on their eighteenth birthday as reported by the
345 Mississippi Department of Human Services shall be certified
346 Medicaid eligible by the Division of Medicaid until their
347 twenty-first birthday.

348 (24) Individuals who have not attained age sixty-five (65),
349 are not otherwise covered by creditable coverage as defined in the
350 Public Health Services Act, and have been screened for breast and
351 cervical cancer under the Centers for Disease Control and
352 Prevention Breast and Cervical Cancer Early Detection Program
353 established under Title XV of the Public Health Service Act in
354 accordance with the requirements of that act and who need
355 treatment for breast or cervical cancer. Eligibility of
356 individuals under this paragraph (24) shall be determined by the
357 Division of Medicaid.

358 (25) The division shall apply to the Centers for Medicare
359 and Medicaid Services (CMS) for any necessary waivers to provide
360 services to individuals who are sixty-five (65) years of age or
361 older or are disabled as determined under Section 1614(a)(3) of
362 the federal Social Security Act, as amended, and whose income does
363 not exceed one hundred thirty-five percent (135%) of the nonfarm
364 official poverty level as defined by the Office of Management and
365 Budget and revised annually, and whose resources do not exceed
366 those established by the Division of Medicaid, and who are not
367 otherwise covered by Medicare. Nothing contained in this
368 paragraph (25) shall entitle an individual to benefits. The

369 eligibility of individuals covered under this paragraph shall be
370 determined by the Division of Medicaid.
371 (26) The division shall apply to the Centers for Medicare
372 and Medicaid Services (CMS) for any necessary waivers to provide
373 services to individuals who are sixty-five (65) years of age or
374 older or are disabled as determined under Section 1614(a)(3) of
375 the federal Social Security Act, as amended, who are end stage
376 renal disease patients on dialysis, cancer patients on
377 chemotherapy or organ transplant recipients on antirejection
378 drugs, whose income does not exceed one hundred thirty-five
379 percent (135%) of the nonfarm official poverty level as defined by
380 the Office of Management and Budget and revised annually, and
381 whose resources do not exceed those established by the division.
382 Nothing contained in this paragraph (26) shall entitle an
383 individual to benefits. The eligibility of individuals covered
384 under this paragraph shall be determined by the Division of
385 Medicaid.
386 (27) Individuals who are entitled to Medicare Part D and
387 whose income does not exceed one hundred fifty percent (150%) of
388 the nonfarm official poverty level as defined by the Office of
389 Management and Budget and revised annually. Eligibility for
390 payment of the Medicare Part D subsidy under this paragraph shall
391 be determined by the division.
392 (28) The division is authorized and directed to provide up
393 to twelve (12) months of continuous coverage postpartum for any

394 individual who qualifies for Medicaid coverage under this section
395 as a pregnant woman, to the extent allowable under federal law and
396 as determined by the division.
397 (29) Individuals who are eligible under the Section 1115
398 waiver obtained under Section 1 of this act.
399 The division shall redetermine eligibility for all categories
400 of recipients described in each paragraph of this section not less
401 frequently than required by federal law.
402 **SECTION 3.** This act shall take effect and be in force from
403 and after July 1, 2024.