

By: Representative Scott

To: Medicaid; Appropriations  
A

HOUSE BILL NO. 959

1 AN ACT TO AMEND SECTION 43-13-121, MISSISSIPPI CODE OF 1972,  
2 TO DIRECT THE DIVISION OF MEDICAID TO APPLY FOR NECESSARY WAIVERS  
3 AND EXPEND FUNDS APPROPRIATED AS NECESSARY TO PROVIDE HOME- AND  
4 COMMUNITY-BASED SERVICES TO PERSONS WHO ARE AGED/DISABLED,  
5 PHYSICALLY DISABLED OR RECIPIENTS WITH TRAUMATIC BRAIN  
6 INJURY/SPINAL CORD INJURY, TO ELIMINATE ANY WAITING PERIOD FOR  
7 SERVICES; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 43-13-121, Mississippi Code of 1972, is  
10 amended as follows:

11 43-13-121. (1) The division shall administer the Medicaid  
12 program under the provisions of this article, and may do the  
13 following:

14 (a) Adopt and promulgate reasonable rules, regulations  
15 and standards, with approval of the Governor, and in accordance  
16 with the Administrative Procedures Law, Section 25-43-1.101 et  
17 seq.:

18 (i) Establishing methods and procedures as may be  
19 necessary for the proper and efficient administration of this  
20 article;



21 (ii) Providing Medicaid to all qualified  
22 recipients under the provisions of this article as the division  
23 may determine and within the limits of appropriated funds;

24 (iii) Establishing reasonable fees, charges and  
25 rates for medical services and drugs; in doing so, the division  
26 shall fix all of those fees, charges and rates at the minimum  
27 levels absolutely necessary to provide the medical assistance  
28 authorized by this article, and shall not change any of those  
29 fees, charges or rates except as may be authorized in Section  
30 43-13-117;

31 (iv) Providing for fair and impartial hearings;

32 (v) Providing safeguards for preserving the  
33 confidentiality of records; and

34 (vi) For detecting and processing fraudulent  
35 practices and abuses of the program;

36 (b) Receive and expend state, federal and other funds  
37 in accordance with court judgments or settlements and agreements  
38 between the State of Mississippi and the federal government, the  
39 rules and regulations promulgated by the division, with the  
40 approval of the Governor, and within the limitations and  
41 restrictions of this article and within the limits of funds  
42 available for that purpose;

43 (c) Subject to the limits imposed by this article and  
44 subject to the provisions of subsection (8) of this section, to  
45 submit a Medicaid plan to the United States Department of Health



46 and Human Services for approval under the provisions of the  
47 federal Social Security Act, to act for the state in making  
48 negotiations relative to the submission and approval of that plan,  
49 to make such arrangements, not inconsistent with the law, as may  
50 be required by or under federal law to obtain and retain that  
51 approval and to secure for the state the benefits of the  
52 provisions of that law.

53 No agreements, specifically including the general plan for  
54 the operation of the Medicaid program in this state, shall be made  
55 by and between the division and the United States Department of  
56 Health and Human Services unless the Attorney General of the State  
57 of Mississippi has reviewed the agreements, specifically including  
58 the operational plan, and has certified in writing to the Governor  
59 and to the executive director of the division that the agreements,  
60 including the plan of operation, have been drawn strictly in  
61 accordance with the terms and requirements of this article;

62 (d) In accordance with the purposes and intent of this  
63 article and in compliance with its provisions, provide for aged  
64 persons otherwise eligible for the benefits provided under Title  
65 XVIII of the federal Social Security Act by expenditure of funds  
66 available for those purposes;

67 (e) To make reports to the United States Department of  
68 Health and Human Services as from time to time may be required by  
69 that federal department and to the Mississippi Legislature as  
70 provided in this section;



71 (f) Define and determine the scope, duration and amount  
72 of Medicaid that may be provided in accordance with this article  
73 and establish priorities therefor in conformity with this article;

74 (g) Cooperate and contract with other state agencies  
75 for the purpose of coordinating Medicaid provided under this  
76 article and eliminating duplication and inefficiency in the  
77 Medicaid program;

78 (h) Adopt and use an official seal of the division;

79 (i) Sue in its own name on behalf of the State of  
80 Mississippi and employ legal counsel on a contingency basis with  
81 the approval of the Attorney General;

82 (j) To recover any and all payments incorrectly made by  
83 the division to a recipient or provider from the recipient or  
84 provider receiving the payments. The division shall be authorized  
85 to collect any overpayments to providers sixty (60) days after the  
86 conclusion of any administrative appeal unless the matter is  
87 appealed to a court of proper jurisdiction and bond is posted.  
88 Any appeal filed after July 1, 2015, shall be to the Chancery  
89 Court of the First Judicial District of Hinds County, Mississippi,  
90 within sixty (60) days after the date that the division has  
91 notified the provider by certified mail sent to the proper address  
92 of the provider on file with the division and the provider has  
93 signed for the certified mail notice, or sixty (60) days after the  
94 date of the final decision if the provider does not sign for the  
95 certified mail notice. To recover those payments, the division



96 may use the following methods, in addition to any other methods  
97 available to the division:

98 (i) The division shall report to the Department of  
99 Revenue the name of any current or former Medicaid recipient who  
100 has received medical services rendered during a period of  
101 established Medicaid ineligibility and who has not reimbursed the  
102 division for the related medical service payment(s). The  
103 Department of Revenue shall withhold from the state tax refund of  
104 the individual, and pay to the division, the amount of the  
105 payment(s) for medical services rendered to the ineligible  
106 individual that have not been reimbursed to the division for the  
107 related medical service payment(s).

108 (ii) The division shall report to the Department  
109 of Revenue the name of any Medicaid provider to whom payments were  
110 incorrectly made that the division has not been able to recover by  
111 other methods available to the division. The Department of  
112 Revenue shall withhold from the state tax refund of the provider,  
113 and pay to the division, the amount of the payments that were  
114 incorrectly made to the provider that have not been recovered by  
115 other available methods;

116 (k) To recover any and all payments by the division  
117 fraudulently obtained by a recipient or provider. Additionally,  
118 if recovery of any payments fraudulently obtained by a recipient  
119 or provider is made in any court, then, upon motion of the



120 Governor, the judge of the court may award twice the payments  
121 recovered as damages;

122 (1) Have full, complete and plenary power and authority  
123 to conduct such investigations as it may deem necessary and  
124 requisite of alleged or suspected violations or abuses of the  
125 provisions of this article or of the regulations adopted under  
126 this article, including, but not limited to, fraudulent or  
127 unlawful act or deed by applicants for Medicaid or other benefits,  
128 or payments made to any person, firm or corporation under the  
129 terms, conditions and authority of this article, to suspend or  
130 disqualify any provider of services, applicant or recipient for  
131 gross abuse, fraudulent or unlawful acts for such periods,  
132 including permanently, and under such conditions as the division  
133 deems proper and just, including the imposition of a legal rate of  
134 interest on the amount improperly or incorrectly paid. Recipients  
135 who are found to have misused or abused Medicaid benefits may be  
136 locked into one (1) physician and/or one (1) pharmacy of the  
137 recipient's choice for a reasonable amount of time in order to  
138 educate and promote appropriate use of medical services, in  
139 accordance with federal regulations. If an administrative hearing  
140 becomes necessary, the division may, if the provider does not  
141 succeed in his or her defense, tax the costs of the administrative  
142 hearing, including the costs of the court reporter or stenographer  
143 and transcript, to the provider. The convictions of a recipient  
144 or a provider in a state or federal court for abuse, fraudulent or



145 unlawful acts under this chapter shall constitute an automatic  
146 disqualification of the recipient or automatic disqualification of  
147 the provider from participation under the Medicaid program.

148 A conviction, for the purposes of this chapter, shall include  
149 a judgment entered on a plea of nolo contendere or a  
150 nonadjudicated guilty plea and shall have the same force as a  
151 judgment entered pursuant to a guilty plea or a conviction  
152 following trial. A certified copy of the judgment of the court of  
153 competent jurisdiction of the conviction shall constitute prima  
154 facie evidence of the conviction for disqualification purposes;

155 (m) Establish and provide such methods of  
156 administration as may be necessary for the proper and efficient  
157 operation of the Medicaid program, fully utilizing computer  
158 equipment as may be necessary to oversee and control all current  
159 expenditures for purposes of this article, and to closely monitor  
160 and supervise all recipient payments and vendors rendering  
161 services under this article. Notwithstanding any other provision  
162 of state law, the division is authorized to enter into a ten-year  
163 contract(s) with a vendor(s) to provide services described in this  
164 paragraph (m). Notwithstanding any provision of law to the  
165 contrary, the division is authorized to extend its Medicaid  
166 Management Information System, including all related components  
167 and services, and Decision Support System, including all related  
168 components and services, contracts in effect on June 30, 2020, for



169 a period not to exceed two (2) years without complying with state  
170 procurement regulations;

171 (n) To cooperate and contract with the federal  
172 government for the purpose of providing Medicaid to Vietnamese and  
173 Cambodian refugees, under the provisions of Public Law 94-23 and  
174 Public Law 94-24, including any amendments to those laws, only to  
175 the extent that the Medicaid assistance and the administrative  
176 cost related thereto are one hundred percent (100%) reimbursable  
177 by the federal government. For the purposes of Section 43-13-117,  
178 persons receiving Medicaid under Public Law 94-23 and Public Law  
179 94-24, including any amendments to those laws, shall not be  
180 considered a new group or category of recipient; and

181 (o) The division shall impose penalties upon Medicaid  
182 only, Title XIX participating long-term care facilities found to  
183 be in noncompliance with division and certification standards in  
184 accordance with federal and state regulations, including interest  
185 at the same rate calculated by the United States Department of  
186 Health and Human Services and/or the Centers for Medicare and  
187 Medicaid Services (CMS) under federal regulations.

188 (2) The division also shall exercise such additional powers  
189 and perform such other duties as may be conferred upon the  
190 division by act of the Legislature.

191 (3) The division, and the State Department of Health as the  
192 agency for licensure of health care facilities and certification  
193 and inspection for the Medicaid and/or Medicare programs, shall





194 contract for or otherwise provide for the consolidation of on-site  
195 inspections of health care facilities that are necessitated by the  
196 respective programs and functions of the division and the  
197 department.

198 (4) The division and its hearing officers shall have power  
199 to preserve and enforce order during hearings; to issue subpoenas  
200 for, to administer oaths to and to compel the attendance and  
201 testimony of witnesses, or the production of books, papers,  
202 documents and other evidence, or the taking of depositions before  
203 any designated individual competent to administer oaths; to  
204 examine witnesses; and to do all things conformable to law that  
205 may be necessary to enable them effectively to discharge the  
206 duties of their office. In compelling the attendance and  
207 testimony of witnesses, or the production of books, papers,  
208 documents and other evidence, or the taking of depositions, as  
209 authorized by this section, the division or its hearing officers  
210 may designate an individual employed by the division or some other  
211 suitable person to execute and return that process, whose action  
212 in executing and returning that process shall be as lawful as if  
213 done by the sheriff or some other proper officer authorized to  
214 execute and return process in the county where the witness may  
215 reside. In carrying out the investigatory powers under the  
216 provisions of this article, the executive director or other  
217 designated person or persons may examine, obtain, copy or  
218 reproduce the books, papers, documents, medical charts,



219 prescriptions and other records relating to medical care and  
220 services furnished by the provider to a recipient or designated  
221 recipients of Medicaid services under investigation. In the  
222 absence of the voluntary submission of the books, papers,  
223 documents, medical charts, prescriptions and other records, the  
224 Governor, the executive director, or other designated person may  
225 issue and serve subpoenas instantly upon the provider, his or her  
226 agent, servant or employee for the production of the books,  
227 papers, documents, medical charts, prescriptions or other records  
228 during an audit or investigation of the provider. If any provider  
229 or his or her agent, servant or employee refuses to produce the  
230 records after being duly subpoenaed, the executive director may  
231 certify those facts and institute contempt proceedings in the  
232 manner, time and place as authorized by law for administrative  
233 proceedings. As an additional remedy, the division may recover  
234 all amounts paid to the provider covering the period of the audit  
235 or investigation, inclusive of a legal rate of interest and a  
236 reasonable attorney's fee and costs of court if suit becomes  
237 necessary. Division staff shall have immediate access to the  
238 provider's physical location, facilities, records, documents,  
239 books, and any other records relating to medical care and services  
240 rendered to recipients during regular business hours.

241 (5) If any person in proceedings before the division  
242 disobeys or resists any lawful order or process, or misbehaves  
243 during a hearing or so near the place thereof as to obstruct the



244 hearing, or neglects to produce, after having been ordered to do  
245 so, any pertinent book, paper or document, or refuses to appear  
246 after having been subpoenaed, or upon appearing refuses to take  
247 the oath as a witness, or after having taken the oath refuses to  
248 be examined according to law, the executive director shall certify  
249 the facts to any court having jurisdiction in the place in which  
250 it is sitting, and the court shall thereupon, in a summary manner,  
251 hear the evidence as to the acts complained of, and if the  
252 evidence so warrants, punish that person in the same manner and to  
253 the same extent as for a contempt committed before the court, or  
254 commit that person upon the same condition as if the doing of the  
255 forbidden act had occurred with reference to the process of, or in  
256 the presence of, the court.

257 (6) In suspending or terminating any provider from  
258 participation in the Medicaid program, the division shall preclude  
259 the provider from submitting claims for payment, either personally  
260 or through any clinic, group, corporation or other association to  
261 the division or its fiscal agents for any services or supplies  
262 provided under the Medicaid program except for those services or  
263 supplies provided before the suspension or termination. No  
264 clinic, group, corporation or other association that is a provider  
265 of services shall submit claims for payment to the division or its  
266 fiscal agents for any services or supplies provided by a person  
267 within that organization who has been suspended or terminated from  
268 participation in the Medicaid program except for those services or



269 supplies provided before the suspension or termination. When this  
270 provision is violated by a provider of services that is a clinic,  
271 group, corporation or other association, the division may suspend  
272 or terminate that organization from participation. Suspension may  
273 be applied by the division to all known affiliates of a provider,  
274 provided that each decision to include an affiliate is made on a  
275 case-by-case basis after giving due regard to all relevant facts  
276 and circumstances. The violation, failure or inadequacy of  
277 performance may be imputed to a person with whom the provider is  
278 affiliated where that conduct was accomplished within the course  
279 of his or her official duty or was effectuated by him or her with  
280 the knowledge or approval of that person.

281 (7) The division may deny or revoke enrollment in the  
282 Medicaid program to a provider if any of the following are found  
283 to be applicable to the provider, his or her agent, a managing  
284 employee or any person having an ownership interest equal to five  
285 percent (5%) or greater in the provider:

286 (a) Failure to truthfully or fully disclose any and all  
287 information required, or the concealment of any and all  
288 information required, on a claim, a provider application or a  
289 provider agreement, or the making of a false or misleading  
290 statement to the division relative to the Medicaid program.

291 (b) Previous or current exclusion, suspension,  
292 termination from or the involuntary withdrawing from participation  
293 in the Medicaid program, any other state's Medicaid program,



294 Medicare or any other public or private health or health insurance  
295 program. If the division ascertains that a provider has been  
296 convicted of a felony under federal or state law for an offense  
297 that the division determines is detrimental to the best interest  
298 of the program or of Medicaid beneficiaries, the division may  
299 refuse to enter into an agreement with that provider, or may  
300 terminate or refuse to renew an existing agreement.

301 (c) Conviction under federal or state law of a criminal  
302 offense relating to the delivery of any goods, services or  
303 supplies, including the performance of management or  
304 administrative services relating to the delivery of the goods,  
305 services or supplies, under the Medicaid program, any other  
306 state's Medicaid program, Medicare or any other public or private  
307 health or health insurance program.

308 (d) Conviction under federal or state law of a criminal  
309 offense relating to the neglect or abuse of a patient in  
310 connection with the delivery of any goods, services or supplies.

311 (e) Conviction under federal or state law of a criminal  
312 offense relating to the unlawful manufacture, distribution,  
313 prescription or dispensing of a controlled substance.

314 (f) Conviction under federal or state law of a criminal  
315 offense relating to fraud, theft, embezzlement, breach of  
316 fiduciary responsibility or other financial misconduct.



317 (g) Conviction under federal or state law of a criminal  
318 offense punishable by imprisonment of a year or more that involves  
319 moral turpitude, or acts against the elderly, children or infirm.

320 (h) Conviction under federal or state law of a criminal  
321 offense in connection with the interference or obstruction of any  
322 investigation into any criminal offense listed in paragraphs (c)  
323 through (i) of this subsection.

324 (i) Sanction for a violation of federal or state laws  
325 or rules relative to the Medicaid program, any other state's  
326 Medicaid program, Medicare or any other public health care or  
327 health insurance program.

328 (j) Revocation of license or certification.

329 (k) Failure to pay recovery properly assessed or  
330 pursuant to an approved repayment schedule under the Medicaid  
331 program.

332 (l) Failure to meet any condition of enrollment.

333 (8) (a) As used in this subsection (8), the following terms  
334 shall be defined as provided in this paragraph, except as  
335 otherwise provided in this subsection:

336 (i) "Committees" means the Medicaid Committees of  
337 the House of Representatives and the Senate, and "committee" means  
338 either one of those committees.

339 (ii) "State Plan" means the agreement between the  
340 State of Mississippi and the federal government regarding the  
341 nature and scope of Mississippi's Medicaid Program.



342 (iii) "State Plan Amendment" means a change to the  
343 State Plan, which must be approved by the Centers for Medicare and  
344 Medicaid Services (CMS) before its implementation.

345 (b) Whenever the Division of Medicaid proposes a State  
346 Plan Amendment, the division shall give notice to the chairmen of  
347 the committees at least thirty (30) calendar days before the  
348 proposed State Plan Amendment is filed with CMS. The division  
349 shall furnish the chairmen with a concise summary of each proposed  
350 State Plan Amendment along with the notice, and shall furnish the  
351 chairmen with a copy of any proposed State Plan Amendment upon  
352 request. The division also shall provide a summary and copy of  
353 any proposed State Plan Amendment to any other member of the  
354 Legislature upon request.

355 (c) If the chairman of either committee or both  
356 chairmen jointly object to the proposed State Plan Amendment or  
357 any part thereof, the chairman or chairmen shall notify the  
358 division and provide the reasons for their objection in writing  
359 not later than seven (7) calendar days after receipt of the notice  
360 from the division. The chairman or chairmen may make written  
361 recommendations to the division for changes to be made to a  
362 proposed State Plan Amendment.

363 (d) (i) The chairman of either committee or both  
364 chairmen jointly may hold a committee meeting to review a proposed  
365 State Plan Amendment. If either chairman or both chairmen decide  
366 to hold a meeting, they shall notify the division of their



367 intention in writing within seven (7) calendar days after receipt  
368 of the notice from the division, and shall set the date and time  
369 for the meeting in their notice to the division, which shall not  
370 be later than fourteen (14) calendar days after receipt of the  
371 notice from the division.

372 (ii) After the committee meeting, the committee or  
373 committees may object to the proposed State Plan Amendment or any  
374 part thereof. The committee or committees shall notify the  
375 division and the reasons for their objection in writing not later  
376 than seven (7) calendar days after the meeting. The committee or  
377 committees may make written recommendations to the division for  
378 changes to be made to a proposed State Plan Amendment.

379 (e) If both chairmen notify the division in writing  
380 within seven (7) calendar days after receipt of the notice from  
381 the division that they do not object to the proposed State Plan  
382 Amendment and will not be holding a meeting to review the proposed  
383 State Plan Amendment, the division may proceed to file the  
384 proposed State Plan Amendment with CMS.

385 (f) (i) If there are any objections to a proposed rate  
386 change or any part thereof from either or both of the chairmen or  
387 the committees, the division may withdraw the proposed State Plan  
388 Amendment, make any of the recommended changes to the proposed  
389 State Plan Amendment, or not make any changes to the proposed  
390 State Plan Amendment.





391 (ii) If the division does not make any changes to  
392 the proposed State Plan Amendment, it shall notify the chairmen of  
393 that fact in writing, and may proceed to file the State Plan  
394 Amendment with CMS.

395 (iii) If the division makes any changes to the  
396 proposed State Plan Amendment, the division shall notify the  
397 chairmen of its actions in writing, and may proceed to file the  
398 State Plan Amendment with CMS.

399 (g) Nothing in this subsection (8) shall be construed  
400 as giving the chairmen or the committees any authority to veto,  
401 nullify or revise any State Plan Amendment proposed by the  
402 division. The authority of the chairmen or the committees under  
403 this subsection shall be limited to reviewing, making objections  
404 to and making recommendations for changes to State Plan Amendments  
405 proposed by the division.

406 (i) If the division does not make any changes to  
407 the proposed State Plan Amendment, it shall notify the chairmen of  
408 that fact in writing, and may proceed to file the proposed State  
409 Plan Amendment with CMS.

410 (ii) If the division makes any changes to the  
411 proposed State Plan Amendment, the division shall notify the  
412 chairmen of the changes in writing, and may proceed to file the  
413 proposed State Plan Amendment with CMS.

414 (h) Nothing in this subsection (8) shall be construed  
415 as giving the chairmen of the committees any authority to veto,



416 nullify or revise any State Plan Amendment proposed by the  
417 division. The authority of the chairmen of the committees under  
418 this subsection shall be limited to reviewing, making objections  
419 to and making recommendations for suggested changes to State Plan  
420 Amendments proposed by the division.

421 (9) The Division of Medicaid shall apply for necessary  
422 waivers and expend funds appropriated as necessary to provide  
423 home- and community-based services through any CMS approved state  
424 plan or home- and community-based services waiver to individuals  
425 who qualify for those services and who are aged/disabled, are  
426 physically disabled or are recipients with traumatic brain  
427 injury/spinal cord injury, to eliminate any waiting period for  
428 receiving services, or to transition a recipient from an  
429 institution to any home- and community-based setting. The cost of  
430 providing such home- and community-based services shall not exceed  
431 the cost of nursing facility services, as determined by the  
432 division.

433 **SECTION 2.** This act shall take effect and be in force from  
434 and after July 1, 2024.

