

March 27, 2025

TO THE MISSISSIPPI SENATE:

GOVERNOR'S VETO MESSAGE FOR SENATE BILL 2867

I am returning Senate Bill 2867: "AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972, TO MAKE CERTAIN TECHNICAL AMENDMENTS TO THE PROVISIONS THAT PROVIDE FOR MEDICAID ELIGIBILITY AND TO MODIFY AGE AND INCOME AND ELIGIBILITY CRITERIA TO REFLECT THE CURRENT CRITERIA; TO REQUIRE THE DIVISION OF MEDICAID TO SUBMIT A WAIVER BY JULY 1, 2025, TO THE CENTER FOR MEDICARE AND MEDICAID SERVICES (CMS) TO AUTHORIZE THE DIVISION TO CONDUCT LESS FREQUENT MEDICAL REDETERMINATIONS FOR ELIGIBLE CHILDREN WHO HAVE CERTAIN LONG-TERM OR CHRONIC CONDITIONS THAT DO NOT NEED TO BE REIDENTIFIED EVERY YEAR; TO PROVIDE THAT MEN OF REPRODUCTIVE AGE ARE ELIGIBLE UNDER THE FAMILY PLANNING PROGRAM; TO CONFORM WITH FEDERAL LAW TO ALLOW CHILDREN IN FOSTER CARE TO BE ELIGIBLE UNTIL THEIR 26TH BIRTHDAY; TO ELIMINATE THE REQUIREMENT THAT THE DIVISION MUST APPLY TO CMS FOR WAIVERS TO PROVIDE SERVICES FOR CERTAIN INDIVIDUALS WHO ARE END STAGE RENAL DISEASE PATIENTS ON DIALYSIS, CANCER PATIENTS ON CHEMOTHERAPY OR ORGAN TRANSPLANT RECIPIENTS ON ANTIREJECTION DRUGS; TO AMEND SECTION 43-13-117, MISSISSIPPI CODE OF 1972, TO MAKE CERTAIN TECHNICAL AMENDMENTS TO THE PROVISIONS THAT PROVIDE FOR MEDICAID SERVICES TO COMPLY WITH FEDERAL LAW; TO ELIMINATE THE OPTION FOR CERTAIN RURAL HOSPITALS TO ELECT AGAINST REIMBURSEMENT FOR OUTPATIENT HOSPITAL SERVICES USING THE AMBULATORY PAYMENT CLASSIFICATION (APC) METHODOLOGY; TO REQUIRE THE DIVISION TO UPDATE THE CASE-MIX PAYMENT SYSTEM AND FAIR RENTAL REIMBURSEMENT SYSTEM AS NECESSARY TO MAINTAIN COMPLIANCE WITH FEDERAL LAW; TO AUTHORIZE THE DIVISION TO IMPLEMENT A QUALITY OR VALUE-BASED COMPONENT TO THE NURSING FACILITY PAYMENT SYSTEM; TO REQUIRE THE DIVISION TO REIMBURSE PEDIATRICIANS FOR CERTAIN PRIMARY CARE SERVICES AS DEFINED BY THE DIVISION AT 100% OF THE RATE ESTABLISHED UNDER MEDICARE; TO REQUIRE THE DIVISION TO REIMBURSE FOR ONE PAIR OF EYEGLASSES EVERY TWO YEARS INSTEAD OF EVERY FIVE YEARS

FOR CERTAIN BENEFICIARIES; TO AUTHORIZE ORAL CONTRACEPTIVES TO BE PRESCRIBED AND DISPENSED IN TWELVE-MONTH SUPPLY INCREMENTS UNDER FAMILY PLANNING SERVICES; TO AUTHORIZE THE DIVISION TO REIMBURSE AMBULATORY SURGICAL CARE (ASC) BASED ON 90% OF THE MEDICARE ASC PAYMENT SYSTEM RATE IN EFFECT JULY 1 OF EACH YEAR AS SET BY CMS; TO AUTHORIZE THE DIVISION TO PROVIDE REIMBURSEMENT FOR DEVICES USED FOR THE REDUCTION OF SNORING AND OBSTRUCTIVE SLEEP APNEA; TO DIRECT THE DIVISION TO ALLOW PHYSICIANS AT ANY HOSPITAL TO PARTICIPATE IN ANY MEDICARE UPPER PAYMENT LIMITS PROGRAM (UPL), ALLOWABLE DELIVERY SYSTEM OR PROVIDER PAYMENT INITIATIVE ESTABLISHED BY THE DIVISION, SUBJECT TO FEDERAL LIMITATIONS ON COLLECTION OF PROVIDER TAXES; TO PROVIDE THAT THE DIVISION MAY, IN CONSULTATION WITH THE MISSISSIPPI HOSPITAL ASSOCIATION, DEVELOP ALTERNATIVE MODELS FOR DISTRIBUTION OF MEDICAL CLAIMS AND SUPPLEMENTAL PAYMENTS FOR INPATIENT AND OUTPATIENT HOSPITAL SERVICES; TO UPDATE AND CLARIFY LANGUAGE ABOUT THE DIVISION'S TRANSITION FROM THE MEDICARE UPPER PAYMENT LIMITS PROGRAM (UPL) TO THE MISSISSIPPI HOSPITAL ACCESS PROGRAM (MHAP); TO PROVIDE THAT THE DIVISION SHALL MAXIMIZE TOTAL FEDERAL FUNDING FOR MHAP, UPL AND OTHER SUPPLEMENTAL PAYMENT PROGRAMS IN EFFECT FOR STATE FISCAL YEAR 2025 AND SHALL NOT CHANGE THE METHODOLOGIES, FORMULAS, MODELS OR PREPRINTS USED TO CALCULATE THE DISTRIBUTION OF SUPPLEMENTAL PAYMENTS TO HOSPITALS FROM THOSE METHODOLOGIES, FORMULAS, MODELS OR PREPRINTS IN EFFECT AND AS APPROVED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR STATE FISCAL YEAR 2025; TO AUTHORIZE THE DIVISION TO CONTRACT WITH THE STATE DEPARTMENT OF HEALTH TO PROVIDE FOR A PERINATAL HIGH RISK MANAGEMENT/INFANT SERVICES SYSTEM FOR ANY ELIGIBLE BENEFICIARY THAT CANNOT RECEIVE SUCH SERVICES UNDER A DIFFERENT PROGRAM; TO AUTHORIZE THE DIVISION TO REIMBURSE FOR SERVICES AT CERTIFIED COMMUNITY BEHAVIORAL HEALTH CENTERS; TO EXTEND TO JULY 1, 2027, THE DATE OF THE REPEALER ON THE PROVISION OF LAW THAT PROVIDES THAT THE DIVISION SHALL REIMBURSE FOR OUTPATIENT HOSPITAL SERVICES PROVIDED TO ELIGIBLE MEDICAID BENEFICIARIES UNDER THE AGE OF TWENTY-ONE YEARS BY BORDER CITY UNIVERSITY-AFFILIATED PEDIATRIC TEACHING HOSPITALS, WHICH WAS REPEALED BY OPERATION OF LAW IN 2024; TO LIMIT THE PAYMENT FOR PROVIDING SERVICES TO MISSISSIPPI MEDICAID BENEFICIARIES UNDER THE AGE OF TWENTY-ONE YEARS WHO ARE TREATED BY A BORDER CITY UNIVERSITY-AFFILIATED PEDIATRIC TEACHING HOSPITAL; TO REQUIRE THE DIVISION TO DEVELOP AND IMPLEMENT A METHOD FOR REIMBURSEMENT OF AUTISM SPECTRUM DISORDER SERVICES BASED ON A CONTINUUM OF CARE FOR BEST PRACTICES IN MEDICALLY NECESSARY EARLY INTERVENTION TREATMENT; TO REQUIRE THE DIVISION TO REIMBURSE FOR PREPARTICIPATION PHYSICAL EVALUATIONS; TO REQUIRE THE DIVISION TO REIMBURSE FOR UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED MEDICATIONS FOR CHRONIC WEIGHT MANAGEMENT OR FOR ADDITIONAL CONDITIONS IN THE DISCRETION OF THE MEDICAL PROVIDER; TO REQUIRE THE DIVISION TO PROVIDE COVERAGE AND REIMBURSEMENT FOR ANY NONSTATIN MEDICATION APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION THAT HAS A UNIQUE INDICATION TO REDUCE THE RISK OF A MAJOR CARDIOVASCULAR EVENT IN PRIMARY PREVENTION AND SECONDARY PREVENTION PATIENTS; TO REQUIRE THE DIVISION TO PROVIDE COVERAGE AND REIMBURSEMENT FOR ANY NONOPIOID MEDICATION APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OR MANAGEMENT OF PAIN; TO REDUCE THE LENGTH OF NOTICE THE

DIVISION MUST PROVIDE THE MEDICAID COMMITTEE CHAIRMEN FOR PROPOSED RATE CHANGES AND TO PROVIDE THAT SUCH LEGISLATIVE NOTICE MAY BE EXPEDITED; TO REQUIRE THE DIVISION TO REIMBURSE AMBULANCE TRANSPORTATION SERVICE PROVIDERS THAT PROVIDE AN ASSESSMENT, TRIAGE OR TREATMENT FOR ELIGIBLE MEDICAID BENEFICIARIES; TO SET CERTAIN REIMBURSEMENT LEVELS FOR SUCH PROVIDERS; TO EXTEND TO JULY 1, 2029, THE DATE OF THE REPEALER ON SUCH SECTION; TO AMEND SECTION 43-13-121, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DIVISION TO EXTEND ITS MEDICAID ENTERPRISE SYSTEM AND FISCAL AGENT SERVICES, INCLUDING ALL RELATED COMPONENTS AND SERVICES, CONTRACTS IN EFFECT ON JUNE 30, 2025, FOR ADDITIONAL FIVE-YEAR PERIODS IF THE SYSTEM CONTINUES TO MEET THE NEEDS OF THE STATE, THE ANNUAL COST CONTINUES TO BE A FAIR MARKET VALUE, AND THE RATE OF INCREASE IS NO MORE THAN FIVE PERCENT OR THE CURRENT CONSUMER PRICE INDEX, WHICHEVER IS LESS; TO AUTHORIZE THE DIVISION TO ENTER INTO A TWO-YEAR CONTRACT WITH A VENDOR TO PROVIDE SUPPORT OF THE DIVISION'S ELIGIBILITY SYSTEM; TO REDUCE THE LENGTH OF NOTICE THE DIVISION MUST PROVIDE THE MEDICAID COMMITTEE CHAIRMEN FOR A PROPOSED STATE PLAN AMENDMENT AND TO PROVIDE THAT SUCH LEGISLATIVE NOTICE MAY BE EXPEDITED; TO AMEND SECTION 43-13-305, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN A THIRD PARTY PAYOR REQUIRES PRIOR AUTHORIZATION FOR AN ITEM OR SERVICE FURNISHED TO A MEDICAID RECIPIENT, THE PAYOR SHALL ACCEPT AUTHORIZATION PROVIDED BY THE DIVISION OF MEDICAID THAT THE ITEM OR SERVICE IS COVERED UNDER THE STATE PLAN AS IF SUCH AUTHORIZATION WERE THE PRIOR AUTHORIZATION MADE BY THE THIRD PARTY PAYOR FOR SUCH ITEM OR SERVICE; TO AMEND SECTION 43-13-117.7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DIVISION SHALL NOT REIMBURSE OR PROVIDE COVERAGE FOR GENDER TRANSITION PROCEDURES FOR ANY PERSON; TO AMEND SECTION 43-13-145, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A QUARTERLY HOSPITAL ASSESSMENT MAY EXCEED THE ASSESSMENT IN THE PRIOR QUARTER BY MORE THAN \$3,750,000.00 IF SUCH INCREASE IS TO MAXIMIZE FEDERAL FUNDS THAT ARE AVAILABLE TO REIMBURSE HOSPITALS FOR SERVICES PROVIDED UNDER NEW PROGRAMS FOR HOSPITALS, FOR INCREASED SUPPLEMENTAL PAYMENT PROGRAMS FOR HOSPITALS OR TO ASSIST WITH STATE MATCHING FUNDS AS AUTHORIZED BY THE LEGISLATURE; TO AUTHORIZE THE DIVISION TO REDUCE OR ELIMINATE THE PORTION OF THE HOSPITAL ASSESSMENT APPLICABLE TO LONG-TERM ACUTE CARE HOSPITALS AND REHABILITATION HOSPITALS IF CMS WAIVES CERTAIN REQUIREMENTS; TO AMEND SECTION 43-13-115.1, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT A PREGNANT WOMAN MUST PROVIDE PROOF OF HER PREGNANCY AND DOCUMENTATION OF HER MONTHLY FAMILY INCOME WHEN SEEKING A DETERMINATION OF PRESUMPTIVE ELIGIBILITY; TO CREATE NEW SECTION 41-140-1, MISSISSIPPI CODE OF 1972, TO DEFINE TERMS; TO CREATE NEW SECTION 41-140-3, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE DEPARTMENT OF HEALTH TO DEVELOP AND PROMULGATE WRITTEN EDUCATIONAL MATERIALS AND INFORMATION FOR HEALTH CARE PROFESSIONALS AND PATIENTS ABOUT MATERNAL MENTAL HEALTH CONDITIONS; TO REQUIRE HOSPITALS PROVIDING BIRTH SERVICES TO PROVIDE SUCH EDUCATIONAL MATERIALS TO NEW PARENTS AND, AS APPROPRIATE, OTHER FAMILY MEMBERS; TO REQUIRE THAT SUCH MATERIALS BE PROVIDED TO ANY WOMAN WHO PRESENTS WITH SIGNS OF A MATERNAL MENTAL HEALTH DISORDER; TO CREATE NEW SECTION 41-140-5, MISSISSIPPI CODE OF 1972, TO REQUIRE ANY HEALTH CARE PROVIDER OR NURSE MIDWIFE WHO RENDERS POSTNATAL CARE OR PEDIATRIC INFANT CARE TO

ENSURE THAT THE POSTNATAL CARE PATIENT OR BIRTHING MOTHER OF THE PEDIATRIC INFANT CARE PATIENT, AS APPLICABLE, IS OFFERED SCREENING FOR POSTPARTUM DEPRESSION AND TO PROVIDE APPROPRIATE REFERRALS IF SUCH PATIENT OR MOTHER IS DEEMED LIKELY TO BE SUFFERING FROM POSTPARTUM DEPRESSION; TO AMEND SECTION 43-13-107, MISSISSIPPI CODE OF 1972, TO ESTABLISH A MEDICAID ADVISORY COMMITTEE AND BENEFICIARY ADVISORY COMMITTEE AS REQUIRED PURSUANT TO FEDERAL REGULATIONS; TO PROVIDE THAT ALL MEMBERS OF THE MEDICAL CARE ADVISORY COMMITTEE SERVING ON JANUARY 1, 2025, SHALL BE SELECTED TO SERVE ON THE MEDICAID ADVISORY COMMITTEE, AND SUCH MEMBERS SHALL SERVE UNTIL JULY 1, 2028; AND OR RELATED PURPOSES."

Senate Bill 2867, commonly referred to as the annual Medicaid Technical Amendments Bill, seeks to expand Medicaid in the state of Mississippi by amending eligibility requirements and increasing covered services. Depending on one's perspective, there are either 25 million, 38.5 million, 40 million, or 50 million reasons to stand in the way of this bill becoming law.

First, the provisions in Senate Bill 2867, when aggregated, are estimated to add total recurring costs of more than \$40,000,000 to the annual budget of the Division of Medicaid ("Division") (of which the state share would be approximately 24%).

Among other things, Senate Bill 2867 seeks to expand eligibility for the Medicare Upper Payment Limits ("UPL") program and freezes the current methodology utilized by the Division to determine supplemental provider payments under the Mississippi Hospital Access Program ("MHAP")--while at the same time nonsensically attempting to make a medical provider that is not currently eligible to participate in the program, immediately eligible.

Consider first, the UPL program. This program was designed to allow the Division to draw down additional federal funding to increase the reimbursement rate for certain physician services provided by the University of Mississippi Medical Center ("UMMC"). The program has been immensely successful, enabling UMMC to receive net increased reimbursements for physician services of approximately \$38.5 million per fiscal year. Under current law, program participation is limited to UMMC. Senate Bill 2867 seeks to remove this limitation on the UPL program and expand it beyond its intended purpose to mandate that the Division "shall allow physicians employed or contracted at any hospital in the state" to participate in the program--including privately-held hospitals. (See Lines 836-841.) Thus, given current federal regulations and limitations, Senate Bill 2867 becoming law will result in UMMC losing \$38,500,000 in reimbursements every fiscal year, thereby creating a corresponding deficit in its operating budget that will almost certainly have to be backfilled by a Legislative appropriation. Furthermore, since Senate Bill 2867 contemplates a "from and after passage" implementation, the actual cost to UMMC between now and the end of FY 2026 is approximately \$50,000,000.

Next, Senate Bill 2867 improvidently seeks to remove the broad discretion afforded to the Division under federal law to find creative ways to increase supplemental payments to hospitals under the MHAP by freezing the current methodology: "[The Division] shall not change the methodologies, formulas, models or preprints used to calculate the distribution of supplemental payments to hospitals from those methodologies, formulas, models or preprints in effect and as approved by the Centers for Medicare and Medicaid Services for state fiscal year 2025 as of December 31, 2024, except to update the time period to the most recent annual period or as

required by federal law or regulation." (See Lines 1012-1021.) Such broad discretion allowed the Division to increase recurring supplemental payments to hospitals by a number greater than \$700,000,000 annually, effective July 1, 2023. Thus, the effect of Senate Bill 2867 would be to unwisely place the Division in a straitjacket, preventing it from finding more creative and innovative ways to increase supplemental payments to hospitals.

Additionally, in spite of language seeking to freeze the MHAP, Senate Bill 2867 authorizes the inclusion of "a border city university-affiliated pediatric teaching hospital. . . in a [supplemental] payment model. . ." (See Lines 1033-1037.) Further, because Senate Bill 2867 is effective upon passage, such a border city university-affiliated pediatric teaching hospital would immediately be eligible to participate in the MHAP. It is logically nonsensical for Senate Bill 2867 to, on the one hand, freeze the MHAP, while on the other hand, mandate that the Division open the program to include an additional hospital. Complying with both requirements is a legal impossibility and places the Division, like Odysseus, between Scylla and Charybdis. Furthermore, this provision would add as much as \$25 million to the Division's current fiscal year budget, creating an additional deficit that would, again, have to be funded by the Legislature.

Some of the additional proposed changes contained in Senate Bill 2867 would be beneficial to the Medicaid program, while others would be problematic. Additionally, it should be noted that the statutory changes to Miss. Code § 43-13-115.1 proposed in Section 7 of the bill to the presumptive eligibility of pregnant women program have already become law through the passage of House Bill 662. Nevertheless, because Senate Bill 2867 would unwisely blow a \$38,000,000 annual, and recurring, hole in UMMC's operating budget and needlessly tie the hands of the Division with respect to finding new and inventive ways to increase supplemental payments to hospitals, two devastating effects, I am left with no choice but to veto the bill at this time.

Respectfully submitted,

TATE REEVES
GOVERNOR