

By: Representatives Brown, Hood, Boyd,
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To: Medicaid

HOUSE BILL NO. 1090
(As Passed the House)

1 AN ACT TO BE KNOWN AS THE MEDICAID AND HUMAN SERVICES
2 TRANSPARENCY AND FRAUD PREVENTION ACT; TO REVISE VARIOUS
3 PROVISIONS RELATING TO THE MEDICAID PROGRAM, THE TEMPORARY
4 ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM, AND THE SUPPLEMENTAL
5 NUTRITION ASSISTANCE PROGRAM (SNAP); AND FOR RELATED PURPOSES.

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

7 **SECTION 1. Short Title.** This act shall be known and may be
8 cited as the "Medicaid and Human Services Transparency and Fraud
9 Prevention Act."

10 **SECTION 2. Integration of Eligibility Systems.** The Division
11 of Medicaid shall submit a final Advanced Planning Document to the
12 Centers for Medicare and Medicaid Services (CMS) for the purpose
13 of applying for the OMB A87 exception to support the integration
14 of eligibility systems between the division and any applicable
15 Department of Human Services program where an integrated system of
16 eligibility will serve the state's interest in developing shared
17 eligibility services across health and human services programs,
18 while at the same time promoting and enhancing the state's efforts
19 of ensuring maximum program integrity across each agency. In



20 preparing the final Advanced Planning Document, the division also
21 shall:

22 (a) Identify functions that can be leveraged or shared
23 across the state Medicaid program and other Department of Human
24 Services programs;

25 (b) Weigh benefits of shared systems;

26 (c) Identify interoperability and integration goals;

27 (d) Seek guidance from the Centers for Medicaid and
28 Medicare Services (CMS) and the Office for the Administration of
29 Children and Families (ACF) on state ideas before submitting
30 Advanced Planning Documents; and

31 (e) Ensure that the enhancement to front end identity
32 and asset verification is an integral part of the advanced
33 planning and integration process going forward.

34 The division shall submit a report on its progress to the
35 chairmen of the House and Senate Medicaid Committees within ninety
36 (90) days and on a quarterly basis thereafter until the final
37 Advanced Planning Document is completed. The report also shall be
38 provided to the other members of the House and the Senate upon
39 request.

40 **SECTION 3. Real-time eligibility monitoring service.**

41 (1) Definitions. For purposes of Sections 3 through 9 of
42 this act, the following definitions apply:

43 (a) "Department" means the Division of Medicaid or the
44 Department of Human Services, as the case may be.



45 (b) "Identity information" means an applicant or
46 recipient's full name, aliases, date of birth, address, Social
47 Security number and other related information.

48 (2) Establishment of enhanced eligibility verification
49 service.

50 (a) The department shall establish and use a
51 computerized income, asset, residence and identity eligibility
52 verification service in order to verify eligibility, eliminate the
53 duplication of assistance, and deter waste, fraud, and abuse
54 within each respective assistance program administered by the
55 department.

56 (b) The department shall enter or have entered into a
57 competitively bid contract with a third-party vendor for the
58 purposes of using and accessing an eligibility verification
59 service by which to verify the income, assets, residence and
60 identity eligibility of applicants to prevent fraud,
61 misrepresentation, and inadequate documentation when determining
62 an applicant's eligibility for assistance before the distribution
63 of benefits, periodically between eligibility redeterminations,
64 and during eligibility redeterminations and reviews, as prescribed
65 in this section. The department may also contract with a vendor
66 to provide information to facilitate reviews of recipient
67 eligibility conducted by the department.

68 (c) When the department enters into a contract with a
69 third-party vendor for the purposes of carrying out this service,



70 the vendor, in partnership with the department, shall be required
71 by contract to establish annualized savings realized from
72 implementation of the verification service. It is the intent of
73 the Legislature that savings exceed the total yearly cost for
74 implementing the verification service.

75 (d) When the department enters into a contract with a
76 third-party vendor, the payment structure shall be based on a
77 per-applicant rate and may include a performance bonus for
78 successfully identifying a rate of fraudulent enrollment of eight
79 percent (8%) or higher annually.

80 (e) To avoid any conflict of interest, when the
81 department enters into a contract with a third-party vendor, that
82 primary vendor may not currently or will not be allowed to bid on
83 or be awarded a state contract to run enrollment services.

84 (f) It shall be the responsibility of the contracted
85 vendor to obtain access to any data, data sources and databases,
86 not already being used by the department, for the purposes of
87 implementing the eligibility verification service.

88 (g) Nothing in this section shall preclude the
89 department from continuing to conduct additional eligibility
90 verification processes, not detailed in this section, that are
91 currently in practice; and nothing in this section shall require
92 the department or vendor to violate the Fair Credit Reporting Act.

93 (3) The department shall have the eligibility verification
94 service required by this section implemented and operational not



95 later than July 1, 2019. The department shall submit a report
96 every six (6) months on its progress on implementing the
97 eligibility verification service to the Chairmen of the House and
98 Senate Appropriations Committees, the House Public Health and
99 Human Services Committee and the Senate Public Health and Welfare
100 Committee, and the House and Senate Medicaid Committees. The
101 report also shall be provided to the other members of the House
102 and the Senate upon request.

103 (4) (a) As used in this subsection, the following terms
104 shall be defined as provided in this paragraph:

105 (i) "Abuse" includes any practice that is
106 inconsistent with acceptable fiscal, business or medical practices
107 that unnecessarily increase cost.

108 (ii) "Fraud" means misrepresenting the truth to
109 obtain an unauthorized benefit.

110 (b) The department shall establish and use a
111 computerized system to determine the extent of waste, abuse and
112 fraud in the programs administered by the department, focusing on
113 detecting and preventing abuse and fraud by providers of services
114 in those programs, and recovering improper payments made to
115 providers of services in those programs. Activities that
116 constitute abuse and fraud by providers include, but are not
117 limited to, any of the following:

118 (i) Billing for a service that was not performed;



119 (ii) Billing for a more costly service than was
120 performed;
121 (iii) Billing for a covered service when a
122 noncovered service was provided;
123 (iv) Duplicate billing for the same service;
124 (v) Falsifying diagnoses; or
125 (vi) Prescribing unnecessary medicines or
126 expensive tests.

127 **SECTION 4. Enhanced eligibility verification process.**

128 (a) All applications for benefits must be processed
129 within a thirty-day period or the minimum required by federal law.
130 Before awarding assistance, and periodically in between
131 recertification, the department shall verify eligibility
132 information of each respective applicant and recipient of
133 assistance from the department.

134 (b) It is the intent of the Legislature that any
135 recipient who has moved out of state shall be terminated from the
136 rolls of eligible recipients within three (3) months of
137 notification of their change of residency.

138 **SECTION 5. Enhanced identity authentication process.** Before

139 awarding assistance, applicants for benefits must complete a
140 computerized identity authentication process that shall confirm
141 the applicant owns the identity presented in the application. The
142 department shall continue to review the recipient's identity



143 ownership periodically to verify and protect the identity of the
144 recipient.

145 **SECTION 6. Discrepancies and case review.** (1) If a
146 discrepancy results from an applicant or recipient's identity
147 information and one or more of the databases or information tools
148 authorized under Sections 3 through 9 of this act, the department
149 shall review the respective applicant or recipient's case using
150 the following procedures:

151 (a) If the information discovered does not result in
152 the department finding a discrepancy or change in an applicant's
153 or recipient's circumstances that may affect eligibility, the
154 department shall take no further action.

155 (b) If the information discovered under Sections 3
156 through 9 of this act results in the department finding a
157 discrepancy or change in a recipient's circumstances that may
158 affect eligibility, the department shall promptly redetermine
159 eligibility after receiving such information.

160 (c) If the information discovered under Sections 3
161 through 9 of this act results in the department finding a
162 discrepancy or change in an applicant's or recipient's
163 circumstances that may affect eligibility, the applicant or
164 recipient shall be given an opportunity to explain the
165 discrepancy; however, self-declarations by applicants or
166 recipients shall not be accepted as verification of categorical



167 and financial eligibility during eligibility evaluations, reviews,
168 and redeterminations.

169 (d) The department shall provide written notice to the
170 applicant or recipient, which shall describe in sufficient detail
171 the circumstances of the discrepancy or change, the manner in
172 which the applicant or recipient may respond, and the consequences
173 of failing to take action. The applicant or recipient shall have
174 ten (10) business days, or the minimum required by state or
175 federal law, to respond in an attempt to resolve the discrepancy
176 or change. The explanation provided by the recipient or applicant
177 shall be given in writing. After receiving the explanation, the
178 department may request additional documentation if it determines
179 that there is risk of fraud, misrepresentation, or inadequate
180 documentation.

181 (e) If the applicant or recipient does not respond to
182 the notice, the department shall deny or discontinue assistance
183 for failure to cooperate, in which case the department shall
184 provide notice of intent to deny or discontinue assistance.
185 Eligibility for assistance shall not be established or
186 reestablished until the discrepancy or change has been resolved.

187 (f) If an applicant or recipient responds to the notice
188 and disagrees with the findings of the match between his or her
189 identity information and one or more databases or information
190 tools authorized under Sections 3 through 9 of this act, the
191 department shall reinvestigate the matter. If the department



192 finds that there has been an error, the department shall take
193 immediate action to correct it and no further action shall be
194 taken. If, after an investigation, the department determines that
195 there is no error, the department shall determine the effect on
196 the applicant's or recipient's case and take appropriate action.
197 Written notice of the respective department's action shall be
198 given to the applicant or recipient.

199 (g) If the applicant or recipient agrees with the
200 findings of the match between the applicant's or recipient's
201 identity information and one or more databases or information
202 tools authorized under Sections 3 through 9 of this act, the
203 department shall determine the effect on the applicant or
204 recipient's case and take appropriate action. Written notice of
205 the department's action shall be given to the applicant or
206 recipient. In no case shall the department discontinue assistance
207 upon finding a discrepancy or change in circumstances between an
208 individual's identity information and one or more databases or
209 information tools authorized under Sections 3 through 9 of this
210 act until the applicant or recipient has been given notice of the
211 discrepancy and the opportunity to respond as required under this
212 section.

213 (2) The department shall promulgate rules and regulations
214 necessary for the purposes of carrying out this section.

215 (3) Wherever applicable and cost-effective, the Division of
216 Medicaid and the Department of Human Services shall share data,



217 data sources, and verification processes aimed at reducing fraud
218 and waste.

219 **SECTION 7. Referrals for fraud, misrepresentation, or**
220 **inadequate documentation.** After reviewing changes or
221 discrepancies that may affect program eligibility, the department
222 shall refer suspected cases of fraud, misrepresentation, or
223 inadequate documentation to appropriate agencies, divisions, or
224 departments for review of eligibility discrepancies in other
225 public programs. This shall also include cases where an
226 individual is determined to be no longer eligible for the original
227 program. In cases where fraud affecting program eligibility is
228 substantiated, the department or other appropriate agencies shall
229 garnish wages or state income tax refunds until the state recovers
230 an amount equal to the amount of benefits that were fraudulently
231 received.

232 **SECTION 8. Reporting.** (1) Thirty (30) days before entering
233 into a competitively bid contract for the eligibility verification
234 service required by Section 3 of this act, the department shall
235 provide a written report to the Governor, the Chairmen of the
236 House and Senate Appropriations Committees, the House Public
237 Health and Human Services Committee and the Senate Public Health
238 and Welfare Committee, and the House and Senate Medicaid
239 Committees, detailing the data sources proposed to be used by the
240 vendor for eligibility and redeterminations, the relevancy of the
241 information from the data sources, the frequency of how often each



242 data sources would be accessed, and an explanation of why other
243 data sources that are readily available are not being used. The
244 report shall include a dynamic cost-benefit analysis that shows
245 the ratio of potential fraud detection to the types and kinds of
246 data sources proposed to be used by the vendor. The report also
247 shall be provided to the other members of the House and the Senate
248 upon request.

249 (2) Six (6) months after the implementation of the
250 eligibility verification service required by Section 3 of this
251 act, and quarterly thereafter, the department shall provide a
252 written report to the Governor, the chairmen of the House and
253 Senate Appropriations Committees, the House Public Health and
254 Human Services Committee and the Senate Public Health and Welfare
255 Committee, and the House and Senate Medicaid Committees, detailing
256 the effectiveness and general findings of the eligibility
257 verification service, including the number of cases reviewed, the
258 number of case closures, the number of referrals for criminal
259 prosecution, recovery of improper payment, collection of civil
260 penalties, and the savings that have resulted from the service.
261 The report also shall be provided to the other members of the
262 House and the Senate upon request.

263 **SECTION 9. Transparency in Medicaid.** Following the
264 precedent set by Medicare, the department shall electronically
265 release to the public data that includes, but is not limited to
266 the following: the provider's name and office locations; a



267 provider's National Provider Identifier (NPI); the type of service
268 provided by Healthcare Common Procedure Coding System (HCPCS)
269 code; and whether the service was performed in a facility or
270 office setting. This public data shall also include the number of
271 services, average submitted charges, average allowed amount,
272 average Medicaid payment, and a count of unique beneficiaries
273 treated. Nothing in this section shall be construed to require
274 the department to publicly share protected information as defined
275 by the federal Health Insurance Portability and Accountability Act
276 (HIPAA).

277 **SECTION 10. Work requirements.** The Department of Human
278 Services shall not seek, apply for, accept or renew any waiver of
279 requirements established under 7 USC Section 2015(o), except
280 during a natural disaster or where the state would under
281 penalties.

282 **SECTION 11. Federal asset limits for the Supplemental**
283 **Nutrition Assistance Program.** In no case shall the resource limit
284 standards of the Supplemental Nutrition Assistance Program (SNAP)
285 exceed the standards specified in 7 USC Section 2014(g)(1), unless
286 expressly required by federal law. In no case shall categorical
287 eligibility exempting households from these resource limits be
288 granted for any noncash, in-kind or other benefit, unless
289 expressly required by federal law.

290 **SECTION 12. Broad-based categorical eligibility.** (1) In no
291 case shall categorical eligibility under 7 USC Section 2014(a) or



292 7 CFR Section 273.2(j)(2)(iii) be granted for any noncash, in-kind
293 or other benefit unless expressly required by federal law for the
294 Supplemental Nutrition Assistance Program (SNAP).

295 (2) The Department of Human Services shall not apply gross
296 income standards for food assistance higher than the standards
297 specified in 7 USC Section 2014(c) unless expressly required by
298 federal law. Categorical eligibility exempting households from
299 such gross income standards requirements shall not be granted for
300 any noncash, in-kind or other benefit, unless expressly required
301 by federal law.

302 **SECTION 13. Sharing enrollee information across agencies.**

303 (1) The Division of Medicaid and the Department of Human
304 Services shall share eligibility information with each other in a
305 timely manner when an enrollee has been disenrolled for any
306 financial or nonfinancial reason that may result in the enrollee's
307 disqualification for benefits with the other department, and shall
308 include the rationale for the action.

309 (2) Any department, agency or division receiving information
310 under subsection (1) of this section shall establish procedures to
311 redetermine eligibility for any enrollee whose eligibility or
312 benefit levels could change as a result of new information
313 provided under subsection (1).

314 **SECTION 14. Maximum family grant.** For purposes of
315 determining the maximum aid payment under the TANF program, the
316 number of persons in a household shall not be increased for any



317 child born into a household that has received aid under TANF
318 continuously for the ten (10) months before the birth of the
319 child.

320 **SECTION 15. Verify identities and household composition, and**
321 **all expenses of welfare applicants.** The Department of Human
322 Services shall verify identity, household composition, expenses,
323 and any other factor affecting eligibility allowed under 7 CFR
324 Section 273.2(f) (3).

325 **SECTION 16. Full cooperation with a fraud investigations.**
326 The Department of Human Services shall communicate the expectation
327 of mandatory cooperation with a fraud investigation and that
328 noncompliance could result in case closure and termination of
329 benefits within thirty (30) days.

330 **SECTION 17. Gaps in eligibility reporting.** The Department
331 of Human Services shall not establish or use a simplified
332 reporting system under 7 CFR Section 273.12(a) (5). The department
333 shall provide a written report to the Chairmen of the House and
334 Senate Appropriations Committees, the House Public Health and
335 Human Services Committee and the Senate Public Health and Welfare
336 Committee, and the House and Senate Medicaid Committees, on the
337 costs of not using a simplified reporting system. The report also
338 shall be provided to the other members of the House and the Senate
339 upon request.

340 **SECTION 18. Noncompliance with Temporary Assistance for**
341 **Needy Families program rules.** (1) The Department of Human



342 Services shall only grant benefits when an approved applicant has
343 signed a written agreement clearly enumerating continued
344 eligibility requirements, circumstances in which sanctions may be
345 imposed, and any potential penalties for noncompliance.

346 (2) The department shall require all enrollees to be
347 compliant with all program requirements, including work
348 requirements, before granting benefits.

349 (3) The department shall institute a three-month,
350 full-household sanction for the first instance of non-compliance
351 with any TANF requirement, unless expressly prohibited by federal
352 law.

353 (4) The department shall terminate benefits for the second
354 instance of non-compliance with any TANF requirement, unless
355 expressly prohibited by federal law.

356 (5) An individual sanctioned under subsection (3) of this
357 section shall not have benefits reinstated without reviewing the
358 agreement required under subsection (1) of this section.

359 (6) The department shall deny benefits to any adult member
360 of a household where another adult member of the household has
361 been found to have committed benefits fraud.

362 **SECTION 19. Noncompliance with Supplemental Nutrition**

363 **Assistance Program rules.** (1) The Department of Human Services
364 shall set disqualification periods for all instances of
365 noncompliance with any SNAP requirement, unless expressly
366 prohibited by federal law.



367 (2) The department shall institute a three-month,
368 full-household disqualification period for the first instance of
369 noncompliance, unless expressly prohibited by federal law.

370 (3) The department shall institute a six-month,
371 full-household disqualification period for the second instance of
372 noncompliance, unless expressly prohibited by federal law.

373 (4) The department shall institute a permanent
374 disqualification period for the third instance of noncompliance,
375 unless expressly prohibited by federal law.

376 (5) If a recipient is subject to a disqualification period
377 under subsection (4) of this section, the department shall
378 institute a six-month disqualification period for the recipient's
379 entire household, unless expressly prohibited by federal law.

380 (6) Unless expressly prohibited by federal law, recipients
381 shall be subject to disqualification for failure to perform
382 actions required by other federal, state, or local means-tested
383 public assistance programs.

384 **SECTION 20. Out-of-state spending.** (1) The Department of
385 Human Services shall post on its website and make available on an
386 annual basis to the chairmen of the House and Senate
387 Appropriations Committees, the House Public Health and Human
388 Services Committee and the Senate Public Health and Welfare
389 Committee a report of SNAP and TANF benefit spending. The report
390 also shall be provided to the other members of the House and the
391 Senate upon request.



392 (2) The report required under subsection (1) of this section
393 shall include:

394 (a) The dollar amount and number of transactions of
395 SNAP benefits that are accessed or spent out-of-state,
396 disaggregated by state;

397 (b) The dollar amount and number of transactions of
398 TANF benefits that are accessed or spent out-of-state,
399 disaggregated by state;

400 (c) The dollar amount, number of transactions, and
401 times of transactions of SNAP benefits that are accessed or spent
402 in-state, disaggregated by retailer, institution, or location,
403 unless expressly prohibited by federal law; and

404 (d) The dollar amount, number of transactions, and time
405 of transactions of TANF benefits that are accessed or spent
406 in-state, disaggregated by retailer, institution, or location.

407 (3) The report required under subsection (1) of this section
408 shall be de-identified to prevent identification of individual
409 recipients.

410 **SECTION 21. Public reporting.** (1) The Division of Medicaid
411 and the Department of Human Services shall provide on annual basis
412 to the chairmen of the House and Senate Appropriations Committees,
413 the House Public Health and Human Services Committee and the
414 Senate Public Health and Welfare Committee, and the House and
415 Senate Medicaid Committees, a report of characteristics of
416 recipients of Medicaid, SNAP and TANF benefits. The report also



417 shall be provided to the other members of the House and the Senate
418 upon request.

419 (2) The report required under subsection (1) of this section
420 shall include:

421 (a) The length of enrollment, disaggregated by program
422 and eligibility group;

423 (b) The share of recipients concurrently enrolled in
424 one or more additional means-tested programs, disaggregated by
425 program and eligibility group;

426 (c) The number of means-tested programs recipients are
427 concurrently enrolled in, disaggregated by program and eligibility
428 group;

429 (d) The demographics and characteristics of recipients,
430 disaggregated by program and eligibility group; and

431 (e) The dollar amount spent on advertising and
432 marketing for TANF, SNAP, Medicaid, and other means-tested
433 programs, including both state and federal funds, disaggregated by
434 program.

435 (3) The report required under subsection (1) of this section
436 shall be de-identified to prevent identification of individual
437 recipients.

438 **SECTION 22. Pilot program for photos on EBT cards.** (1) The
439 Department of Human Services may establish a pilot program in
440 which a photograph of the recipient is included on any electronic
441 benefits transfer card issued by the department to the recipient,



442 unless the recipient declines to have the photograph included.
443 When a recipient is a minor or otherwise incapacitated individual,
444 a parent or legal guardian of such recipient may have a photograph
445 of such parent or legal guardian placed on the card.

446 (2) The Department of Human Services shall explore
447 opportunities with other state agencies, departments, or
448 divisions, including the Department of Public Safety, to share
449 photographs when available. The Department of Human Services may
450 sign one or more memorandum of understanding with such agencies,
451 departments, or divisions as necessary to implement this section.

452 **SECTION 23. Limits on spending locations.** (1) Funds
453 available on electronic benefit transfer cards shall not be used
454 to purchase alcohol, liquor or imitation liquor, cigarettes,
455 tobacco products, bail, gambling activities, lottery tickets,
456 tattoos, travel services provided by a travel agent, money
457 transmission to locations abroad, sexually oriented adult
458 materials, concert tickets, professional or collegiate sporting
459 event tickets, or tickets for other entertainment events intended
460 for the general public.

461 (2) Electronic benefit transfer card transactions shall be
462 prohibited at all retail liquor stores, casinos, gaming
463 establishments, jewelry stores, tattoo parlors, massage parlors,
464 body piercing parlors, spas, nail salons, lingerie shops, tobacco
465 paraphernalia stores, vapor cigarette stores, psychic or fortune
466 telling businesses, bail bond companies, video arcades, movie



467 theaters, cruise ships, theme parks, dog or horse racing
468 facilities, pari-mutuel facilities, sexually oriented businesses,
469 retail establishments that provide adult-oriented entertainment in
470 which performers disrobe or perform in an unclothed state for
471 entertainment, and businesses or retail establishments where
472 minors under eighteen (18) years of age are not permitted.

473 (3) Upon enrollment, the Department of Human Services shall
474 offer new applicants an itemized list of prohibited purchases,
475 including those specified in subsection (1) of this section, and
476 make such a list available on the department's website.

477 (4) The department shall prohibit establishments identified
478 under subsection (2) of this section from operating ATMs that
479 accept electronic benefit transfer cards. Businesses found in
480 violation of this subsection shall be subject to appropriate
481 licensing sanctions.

482 (5) If a recipient is found to have violated subsection (1)
483 of this section, the department shall issue a warning in writing
484 to the recipient. The recipient shall be subject to
485 disqualification of benefits for up to three (3) months following
486 the first offense and a permanent termination of benefits
487 following the second offense, unless expressly prohibited by
488 federal law.

489 **SECTION 24.** Sections 1, 2 and 8 of this act shall take
490 effect and be in force from and after the passage of this act;
491 Sections 3, 6, 9, 10, 11, 14, 16, 18 and 21 shall take effect and



492 be in force from and after July 1, 2017; Sections 4, 5, 7, 12, 13,
493 15, 17, 19, 20, 22 and 23 shall take effect and be enforced from
494 and after July 1, 2019.

