MISSISSIPPI LEGISLATURE REGULAR SESSION 2016

By: Representatives White, Crawford, Dixon, Brown, Boyd, Monsour

To: Medicaid

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1116

AN ACT TO BE KNOWN AS THE ACT TO RESTORE HOPE, OPPORTUNITY, AND PROSPERITY FOR EVERYONE (HOPE); TO REVISE VARIOUS PROVISIONS RELATING TO THE MEDICAID PROGRAM, THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM, AND THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP); AND FOR RELATED PURPOSES.

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

SECTION 1. **Short Title.** This act shall be known and may be cited as the "Act to Restore Hope, Opportunity, and Prosperity for Everyone (HOPE)" or the HOPE Act.

SECTION 2. **Integration of Eligibility Systems.** The Division of Medicaid shall submit an Advanced Planning Document or amend its existing Advanced Planning Document to the Centers for Medicare and Medicaid Services (CMS) for the purpose of applying for the OMB A87 exception to support the integration of eligibility systems between the division and any applicable Department of Human Services program where an integrated system of eligibility will serve the state's interest in developing shared eligibility services across health and human services programs, while at the same time promoting and enhancing the state's efforts of ensuring maximum program integrity across each agency. In preparing the Advanced Planning Document or amendment to the document, the division also shall:

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

(b) Weigh benefits of shared systems;

(c) Identify interoperability and integration goals; on state ideas before submitting Advanced Planning Documents; and

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

The division shall submit its report to the Chairmen of the House and Senate Medicaid Committees within ninety (90) days. The report also shall be provided to the other members of the House and the Senate, unless any member requests not to receive the report.

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

(1) Definitions. For purposes of Sections 3 through 8 of this act, the following definitions apply:

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

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

(2) Establishment of enhanced eligibility verification system.

(a) The department shall establish a computerized income, asset, and identity eligibility verification system in order to verify eligibility, eliminate the duplication of assistance, and deter waste, fraud, and abuse within each respective assistance program administered by the Department.

(b) The department shall enter into a competitively bid contract with a third-party vendor for the purposes of developing a system by which to verify the income, asset, and identity information of applicants to prevent fraud, misrepresentation, and inadequate documentation when determining an applicant's eligibility for assistance before the distribution of benefits, periodically between eligibility redeterminations, and during eligibility redeterminations and reviews, as prescribed in this section. The department may also contract with a vendor to provide information to facilitate reviews of recipient eligibility conducted by the department.

(c) When the department enters into a contract with a third-party vendor for the purposes of carrying out this section, the vendor, in partnership with the department, shall be required by contract to establish annualized savings realized from implementation of the verification system and savings shall exceed the total yearly cost to the state for implementing the verification system.

(d) When the department enters into a contract with a third-party vendor, the payment structure should be based on a per-applicant rate and may include a performance bonus for achieving above a predetermined rate of success of identifying waste, fraud, and abuse.

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

(f) Nothing in this section shall preclude the department from continuing to conduct additional eligibility verification processes, not detailed in this section, that are currently in practice.

(3) Enhanced eligibility verification process. (a) All applications for benefits must be processed within a ten-day period or the minimum required by federal law. Before awarding assistance, and on a quarterly basis thereafter, the department shall verify identity information of each respective applicant and recipient of assistance from the department against the following:

(i) Earned and unearned income information maintained by the Internal Revenue Service;

(ii) Employer weekly, monthly, and/or quarterly reports of income and unemployment insurance payment information maintained by the Department of Employment Security;

(iii) Earned income information maintained by the United States Social Security Administration;

(iv) Immigration status information maintained by United States Citizenship and Immigration Services;

(v) Death register information maintained by the United States Social Security Administration;

(vi) Prisoner information maintained by the United States Social Security Administration;

(vii) Public housing and Section 8 Housing Assistance payment information maintained by the United States Department of Housing and Urban Development;

(viii) National fleeing felon information maintained by the United States Federal Bureau of Investigation;

(ix) Wage reporting and similar information maintained by states contiguous to this state;

(x) Beneficiary records and earnings information maintained by the United States Social Security Administration in its Beneficiary and Earnings Data Exchange (BENDEX) database;

(xi) Earnings and pension information maintained by the United States Social Security Administration in its Beneficiary Earnings Exchange Record System (BEERS) database;

(xii) Employment information maintained by the Department of Employment Security;

(xiii) Employment information maintained by the United States Department of Health and Human Services in its National Directory of New Hires (NDNH) database;

(xiv) Supplemental Security Income information maintained by the United States Social Security Administration in its SSI State Data Exchange (SDX) database;

(xv) Veterans' benefits information maintained by the United States Department of Health and Human Services, in coordination with the State Department of Health and the State Department Of Veterans Affairs, in the federal Public Assistance Reporting Information System (PARIS) database;

(xvi) Child care services information maintained by the Department of Human Services;

(xvii) Utility payments information maintained by the state under the Low Income Home Energy Assistance Program;

(xviii) Emergency utility payment information maintained by the state or local entities;

(xix) A database of all persons who currently hold a license, permit, or certificate from any state agency the cost of which exceeds Five Hundred Dollars ($500.00);

(xx) Income and employment information maintained by Department of Human Services and the United States Department of Health and Human Services' Office of Child Support Enforcement;

(xxi) Earnings and pension information maintained by Public Employees' Retirement System;

(xxii) Any existing real-time database of persons currently receiving benefits in other states, such as the National Accuracy Clearinghouse; and

(xxiii) A database that is substantially similar to or a successor of a database established in this section.

(b) Before awarding assistance, and on a quarterly basis, the department shall match identity information of each respective applicant and recipient of assistance from the department against, at minimum, the following public records:

(i) A nationwide public records data source of physical asset ownership such as real property, automobiles, watercraft, aircraft, and luxury vehicles, or any other vehicle owned by the applicant and recipient of assistance;

(ii) A nationwide public records data source of incarcerated individuals;

(iii) A nationwide best-address and driver's license data source to verify individuals are residents of the state;

(iv) A comprehensive public records database that identifies potential identity fraud or identity theft that can closely associate name, Social Security number, date of birth, phone, and address information;

(v) Subject to the guidelines of Section 1940(b) of the federal Social Security Act, 42 USC Section 1396w(b), information provided by at least sixty (60%) percent of national and local financial institutions operating in Mississippi, in order to locate undisclosed depository accounts or verify account balances of disclosed accounts;

(vi) Outstanding default or arrest warrant information maintained by the criminal history systems board, the criminal justice information system, and the warrant management system; and

(vii) A database that is substantially similar to or a successor of a database established in this section.

SECTION 4. **Enhanced identity authentication process.** Before awarding assistance, applicants for benefits must complete a computerized identity authentication process that shall confirm the applicant owns the identity presented in the application. The department shall review the respective applicant or recipient's identity ownership using the following procedures:

(a) Provide a knowledge-based quiz consisting of financial or personal questions. The quiz must attempt to accommodate nonbanked or under-banked applicants who do not have an established credit history.

(b) Require the quiz for applications be available to be submitted through all channels, including online, in-person, and via phone.

SECTION 5. **Discrepancies and case review.** (1) If a discrepancy results from an applicant or recipient's identity information and one or more of the databases or information tools listed under Section 3 or Section 6 of this act, the department shall review the respective applicant or recipient's case using the following procedures:

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

(b) If the information discovered under Section 3 or Section 4 of this act results in the department finding a discrepancy or change in a recipient's circumstances that may affect eligibility, the department shall promptly redetermine eligibility after receiving such information.

(c) If the information discovered under Section 3 or Section 4 of this act results in the department finding a discrepancy or change in an applicant's or recipient's circumstances that may affect eligibility, the applicant or recipient shall be given an opportunity to explain the discrepancy; however, self-declarations by applicants or recipients shall not be accepted as verification of categorical and financial eligibility during eligibility evaluations, reviews, and redeterminations.

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

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

(e) If an applicant or recipient responds to the notice and disagrees with the findings of the match between his or her identity information and one or more databases or information tools listed under this act, the department shall reinvestigate the matter. If the department finds that there has been an error, the department shall take immediate action to correct it and no further action shall be taken. If, after an investigation, the department determines that there is no error, the department shall determine the effect on the applicant's or recipient's case and take appropriate action. Written notice of the respective department's action shall be given to the applicant or recipient.

(f) If the applicant or recipient agrees with the findings of the match between the applicant's or recipient's identity information and one or more databases or information tools listed under this act, the department shall determine the effect on the applicant or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient. In no case shall the department discontinue assistance upon finding a discrepancy or change in circumstances between an individual's identity information and one or more databases or information tools listed under this act until the applicant or recipient has been given notice of the discrepancy and the opportunity to respond as required under this act.

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

SECTION 6. **Referrals for fraud, misrepresentation, or inadequate documentation.** (1) After reviewing changes or discrepancies that may affect program eligibility, the department shall refer suspected cases of fraud to the Attorney General for investigation and possible criminal prosecution, recovery of improper payments, and collection of civil penalties.

(2) After reviewing changes or discrepancies that may affect program eligibility, the department shall refer suspected cases of identity fraud to the Attorney General for criminal prosecution.

(3) In cases of fraud substantiated by the department, upon conviction the state should review all legal options to remove enrollees from other public programs and garnish wages or state income tax refunds until the state recovers an equal amount of benefits fraudulently received.

(4) After reviewing changes or discrepancies that may affect program eligibility, the department shall refer suspected cases of fraud, misrepresentation, or inadequate documentation to appropriate agencies, divisions, or departments for review of eligibility discrepancies in other public programs. This should also include cases where an individual is determined to be no longer eligible for the original program.

SECTION 7. **Reporting.** Six (6) months after the implementation of this act, and quarterly thereafter, the department shall provide a written report to the Governor and the members of the Legislature detailing the effectiveness and general findings of the eligibility verification system, including the number of cases reviewed, the number of case closures, the number of referrals for criminal prosecution, recovery of improper payment, collection of civil penalties, the outcomes of cases referred to the Attorney General under this act, and the savings that have resulted from the system.

SECTION 8. **Transparency in Medicaid.** Following the precedent set by Medicare, the department shall electronically release to the public data that includes, but is not limited to the following: the provider's name and office locations; a provider's National Provider Identifier (NPI); the type of service provided by Healthcare Common Procedure Coding System (HCPCS) code; and whether the service was performed in a facility or office setting. This public data shall also include the number of services, average submitted charges, average allowed amount, average Medicaid payment, and a count of unique beneficiaries treated.

SECTION 9. **Work requirements.** The Department of Human Services shall not seek, apply for, accept or renew any waiver of requirements established under 7 USC Section 2015(o).

SECTION 10. **Federal asset limits for the Supplemental Nutrition Assistance Program.** In no case shall the resource limit standards of the Supplemental Nutrition Assistance Program (SNAP) exceed the standards specified in 7 USC Section 2014(g)(1), unless expressly required by federal law. In no case shall categorical eligibility exempting households from these resource limits be granted for any noncash, in-kind or other benefit, unless expressly required by federal law.

SECTION 11. **Broad-based categorical eligibility.** (1) In no case shall categorical eligibility under 7 USC Section 2014(a) or 7 CFR Section 273.2(j)(2)(iii) be granted for any noncash, in-kind or other benefit unless expressly required by federal law for the Supplemental Nutrition Assistance Program (SNAP).

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

SECTION 12. **Sharing enrollee information across agencies.**

(1) The Division of Medicaid and the Department of Human Services shall share eligibility information with each other in a timely manner when an enrollee has been disenrolled for any reason, and shall include the rationale for the action.

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

SECTION 13. **Cash diversions as hand-up.** (1) Any funds disbursed by the Department of Human Services through any cash diversion program after July 1, 2016, shall be considered a loan.

(2) The department shall promulgate rules establishing the terms of loans disbursed under subsection (1) of this section.

(3) Any cash diversion loan disbursed under subsection (1) of this act that is not repaid according to the terms established

under subsection (2) of this section shall count towards the recipient's maximum time limit.

SECTION 14. **Maximum family grant.** For purposes of determining the maximum aid payment under the TANF program, the number of persons in a household shall not be increased for any child born into a household that has received aid under TANF continuously for the ten (10) months before the birth of the child.

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

SECTION 16. **Full cooperation with a fraud investigations.** The Department of Human Services shall communicate the expectation of mandatory cooperation with a fraud investigation and that noncompliance could result in case closure and termination of benefits within ten (10) days.

SECTION 17. **Gaps in eligibility reporting.** The Department of Human Services shall not establish or use a simplified reporting system under 7 CFR Section 273.12(a)(5).

SECTION 18. **Noncompliance with Temporary Assistance for Needy Families program rules.** (1) The Department of Human Services shall only grant benefits when an approved applicant has signed a written agreement clearly enumerating continued eligibility requirements, circumstances in which sanctions may be imposed, and any potential penalties for noncompliance.

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

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

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

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

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

SECTION 19. **Noncompliance with Supplemental Nutrition Assistance Program rules.** (1) The Department of Human Services shall set disqualification periods for all instances of noncompliance with any SNAP requirement, unless expressly prohibited by federal law.

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

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

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

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

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

SECTION 20. **Spending out-of-state.** (1) The Department of Human Services shall post on its website and make available on an annual basis to the chairmen of the House and Senate Appropriations Committees, the House Public Health and Human Services Committee and the Senate Public Health and Welfare Committee a report of SNAP and TANF benefit spending. The report also shall be provided to the other members of the House and the Senate, unless any member requests not to receive the report.

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

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

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

(c) The dollar amount, number of transactions, and times of transactions of SNAP benefits that are accessed or spent in-state, disaggregated by retailer, institution, or location; and

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

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

SECTION 21. **Public reporting.** (1) The Division of Medicaid and the Department of Human Services shall post on their websites and make available on annual basis to the chairmen of the House and Senate Appropriations Committees, the House Public Health and Human Services Committee and the Senate Public Health and Welfare Committee a report of welfare recipient characteristics. The report also shall be provided to the other members of the House and the Senate, unless any member requests not to receive the report.

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

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

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

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

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

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

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

SECTION 22. **Photos on EBT cards.** (1) The Department of Human Services shall place a photograph of the recipient on any electronic benefits transfer card issued by the department, unless the recipient declines to have the photograph included. When a recipient is a minor or otherwise incapacitated individual, a parent or legal guardian of such recipient may have a photograph of such parent or legal guardian placed on the card.

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

SECTION 23. **Excessive EBT card loss.** (1) The Department of Human Services shall send all recipients that have requested three replacement cards within a twelve-month-period a letter informing them that another request will require participation in a face-to-face interview with a fraud investigator and eligibility expert.

(2) If a third-party vendor is administering replacement cards directly to recipients, it shall notify the department after the request for a third replacement card in a twelve-month-period, and any subsequent request thereafter.

(3) Upon a recipient's request of a fourth replacement card within any twelve-month-period, and any subsequent request thereafter, the department shall schedule an interview with a fraud investigator and eligibility expert before another new card is issued.

(4) If a recipient fails to appear at an interview scheduled under subsection (3) of this section, the department shall terminate the recipient's benefits within ten (10) days, unless expressly prohibited by federal law.

SECTION 24. **Limits on spending locations.** (1) Funds available on electronic benefit transfer cards shall not be used to purchase alcohol, liquor or imitation liquor, cigarettes, tobacco products, bail, gambling activities, lottery tickets, tattoos, travel services provided by a travel agent, money transmission to locations abroad, sexually oriented adult materials, concert tickets, professional or collegiate sporting event tickets, or tickets for other entertainment events intended for the general public.

(2) Electronic benefit transfer card transactions shall be prohibited at all retail liquor stores, casinos, gaming establishments, jewelry stores, tattoo parlors, massage parlors, body piercing parlors, spas, nail salons, lingerie shops, tobacco paraphernalia stores, vapor cigarette stores, psychic or fortune telling businesses, bail bond companies, video arcades, movie theaters, cruise ships, theme parks, dog or horse racing facilities, pari-mutuel facilities, sexually oriented businesses, retail establishments that provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, and businesses or retail establishments where minors under eighteen (18) years of age are not permitted.

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

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

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

SECTION 25. This act shall take effect and be in force from and after July 1, 2016.