MISSISSIPPI LEGISLATURE REGULAR SESSION 2012

By: Senator(s) Collins, Polk

To: Public Health and Welfare

SENATE BILL NO. 2221

AN ACT TO REQUIRE ADULT APPLICANTS FOR PUBLIC BENEFITS IN MISSISSIPPI TO SUBMIT TO RANDOM DRUG TESTING IN ORDER TO BE ELIGIBLE; TO PROVIDE THAT ANY SUCH PERSON WHOSE TEST RESULTS ARE POSITIVE REGARDING THE PRESENCE OF ANY UNLAWFUL DRUG IN THE PERSON'S SYSTEM SHALL BE INELIGIBLE TO RECEIVE PUBLIC ASSISTANCE FOR A PERIOD OF TIME BASED ON THE NUMBER OF POSITIVE DRUG TESTS; TO PROVIDE PROCEDURES AND EXCEPTIONS FOR SUCH RANDOM DRUG TESTING; TO PROVIDE CRIMINAL PENALTIES FOR WILLFUL VIOLATIONS OF RANDOM DRUG-TESTING REQUIREMENTS; TO MAKE IT UNLAWFUL FOR ANY STATE AGENCY TO PROVIDE ANY PUBLIC BENEFIT IN VIOLATION OF RANDOM DRUG-TESTING REQUIREMENTS; TO AMEND SECTIONS 43-13-115, 43-17-1, 71-5-511 AND 43-33-15, MISSISSIPPI CODE OF 1972, TO SPECIFICALLY REQUIRE THE DIVISION OF MEDICAID, THE DEPARTMENT OF HUMAN SERVICES, THE OFFICE OF EMPLOYMENT SECURITY AND THE MISSISSIPPI HOUSING AUTHORITIES TO REQUIRE APPLICANTS OF PUBLIC ASSISTANCE PROGRAMS TO SUBMIT TO RANDOM DRUG TESTING AS REQUIRED UNDER THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Except as provided in subsection (7) of this section or where exempted by federal law, on or after July 1, 2012, any natural person eighteen (18) years of age or older who has applied for state or local public benefits, as defined in 8 USC, Section 1621, or for federal public benefits, as defined in 8 USC, Section 1611, that is administered by an agency or a political subdivision of this state shall be required to submit to random drug testing to determine whether any unlawful drug is present in the system of the person.

(2) The State Department of Human Services in conjunction with the Bureau of Narcotics and the State Board of Health, shall establish and administer a testing program with such standards and procedures deemed necessary to accomplish the requirements of this section. The testing program will be funded with money

appropriated by the Legislature to the agencies in this subsection for that purpose.

(3) All testing required under this section shall be performed at the Mississippi Crime Laboratory or at a laboratory approved by the Director of the Mississippi Crime Laboratory.

(4) Any person receiving federal, state or local public benefits whose test results are positive regarding the presence of any unlawful drug(s) in the person's system shall be ineligible to receive the benefits for a period of time to be enforced by the agency head as follows:

(a) For the first positive drug test, a period of ninety (90) days;

(b) For the second positive drug test, a period of one hundred eighty (180) days; and

(c) For the third and subsequent positive drug test, a period of one (1) year, after which time the person shall be required to submit to a reentry drug test with negative test results before the person will be eligible to receive such state or local public benefits.

(5) Any person receiving federal, state or local public benefits who refuses to submit to a random drug test shall be ineligible to receive such benefits for a period of one (1) year.

(6) This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

(7) Random drug testing under this section shall not be required:

(a) For assistance for health care items and services that are necessary for the treatment of an emergency medical condition, as defined in 42 USC, Section 1396b(v)(3), of the alien involved and are not related to an organ transplant procedure;

(b) For short-term, noncash, in-kind emergency disaster relief;

(c) For public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(d) For programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by the United States Attorney General, in the United States Attorney General's sole and unreviewable discretion after consultation with appropriate federal agencies and departments, which:

(i) Deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

(iii) Are necessary for the protection of life or safety;

(e) For prenatal care; or

(f) For postsecondary education, whereby the Board of Trustees of State Institutions of Higher Learning or the State Board for Community and Junior Colleges shall set forth, or cause to be set forth, policies regarding postsecondary benefits that comply with all federal law, including, but not limited to, public benefits as described in 8 USC, Section 1611, 1621 or 1623.

(8) It shall be unlawful for any agency or a political subdivision of this state to provide any state, local, or federal benefit, as defined in 8 USC, Section 1621 or 8 USC, Section 1611, in violation of this section. Each state agency or department which administers any program of state or local public benefits shall provide an annual report with respect to its compliance with this section.

(9) Any and all errors and significant delays caused by complying with this section shall be reported to the Governor who

will monitor random drug-testing errors and significant delays and report yearly on such errors and significant delays to ensure that the application of this section is not wrongfully denying benefits to legal residents of Mississippi.

(10) The provisions of this section shall be implemented after the date that the State Department of Human Services or other appropriate state agency has received all federal waivers that are necessary to implement the provisions of this section from the United States Department of Health and Human Services.

SECTION 2. Section 43-13-115, Mississippi Code of 1972, is amended as follows:

43-13-115. Recipients of Medicaid shall be the following persons only:

(1) Those who are qualified for public assistance grants under provisions of Title IV-A and E of the federal Social Security Act, as amended, including those statutorily deemed to be IV-A and low-income families and children under Section 1931 of the federal Social Security Act. For the purposes of this paragraph (1) and paragraphs (8), (17) and (18) of this section, any reference to Title IV-A or to Part A of Title IV of the federal Social Security Act, as amended, or the state plan under Title IV-A or Part A of Title IV, shall be considered as a reference to Title IV-A of the federal Social Security Act, as amended, and the state plan under Title IV-A, including the income and resource standards and methodologies under Title IV-A and the state plan, as they existed on July 16, 1996. The Department of Human Services shall determine Medicaid eligibility for children receiving public assistance grants under Title IV-E. The division shall determine eligibility for low-income families under Section 1931 of the federal Social Security Act and shall redetermine eligibility for those continuing under Title IV-A grants.

(2) Those qualified for Supplemental Security Income (SSI) benefits under Title XVI of the federal Social Security Act,

as amended, and those who are deemed SSI eligible as contained in federal statute. The eligibility of individuals covered in this paragraph shall be determined by the Social Security Administration and certified to the Division of Medicaid.

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

(4) [Deleted]

(5) A child born on or after October 1, 1984, to a woman eligible for and receiving Medicaid under the state plan on the date of the child's birth shall be deemed to have applied for Medicaid and to have been found eligible for Medicaid under the plan on the date of that birth, and will remain eligible for Medicaid for a period of one (1) year so long as the child is a member of the woman's household and the woman remains eligible for Medicaid or would be eligible for Medicaid if pregnant. The eligibility of individuals covered in this paragraph shall be determined by the Division of Medicaid.

(6) Children certified by the State Department of Human Services to the Division of Medicaid of whom the state and county departments of human services have custody and financial responsibility, and children who are in adoptions subsidized in full or part by the Department of Human Services, including special needs children in non-Title IV-E adoption assistance, who are approvable under Title XIX of the Medicaid program. The eligibility of the children covered under this paragraph shall be determined by the State Department of Human Services.

(7) Persons certified by the Division of Medicaid who are patients in a medical facility (nursing home, hospital, tuberculosis sanatorium or institution for treatment of mental diseases), and who, except for the fact that they are patients in

that medical facility, would qualify for grants under Title IV, Supplementary Security Income (SSI) benefits under Title XVI or state supplements, and those aged, blind and disabled persons who would not be eligible for Supplemental Security Income (SSI) benefits under Title XVI or state supplements if they were not institutionalized in a medical facility but whose income is below the maximum standard set by the Division of Medicaid, which standard shall not exceed that prescribed by federal regulation.

(8) Children under eighteen (18) years of age and pregnant women (including those in intact families) who meet the financial standards of the state plan approved under Title IV-A of the federal Social Security Act, as amended. The eligibility of children covered under this paragraph shall be determined by the Division of Medicaid.

(9) Individuals who are:

(a) Children born after September 30, 1983, who have not attained the age of nineteen (19), with family income that does not exceed one hundred percent (100%) of the nonfarm official poverty level;

(b) Pregnant women, infants and children who have not attained the age of six (6), with family income that does not exceed one hundred thirty-three percent (133%) of the federal poverty level; and

(c) Pregnant women and infants who have not attained the age of one (1), with family income that does not exceed one hundred eighty-five percent (185%) of the federal poverty level.

The eligibility of individuals covered in (a), (b) and (c) of this paragraph shall be determined by the division.

(10) Certain disabled children age eighteen (18) or under who are living at home, who would be eligible, if in a medical institution, for SSI or a state supplemental payment under Title XVI of the federal Social Security Act, as amended, and

therefore for Medicaid under the plan, and for whom the state has made a determination as required under Section 1902(e)(3)(b) of the federal Social Security Act, as amended. The eligibility of individuals under this paragraph shall be determined by the Division of Medicaid.

(11) Until the end of the day on December 31, 2005, individuals who are sixty-five (65) years of age or older or are disabled as determined under Section 1614(a)(3) of the federal Social Security Act, as amended, and whose income does not exceed one hundred thirty-five percent (135%) of the nonfarm official poverty level as defined by the Office of Management and Budget and revised annually, and whose resources do not exceed those established by the Division of Medicaid. The eligibility of individuals covered under this paragraph shall be determined by the Division of Medicaid. After December 31, 2005, only those individuals covered under the 1115(c) Healthier Mississippi waiver will be covered under this category.

Any individual who applied for Medicaid during the period from July 1, 2004, through March 31, 2005, who otherwise would have been eligible for coverage under this paragraph (11) if it had been in effect at the time the individual submitted his or her application and is still eligible for coverage under this paragraph (11) on March 31, 2005, shall be eligible for Medicaid coverage under this paragraph (11) from March 31, 2005, through December 31, 2005. The division shall give priority in processing the applications for those individuals to determine their eligibility under this paragraph (11).

(12) Individuals who are qualified Medicare beneficiaries (QMB) entitled to Part A Medicare as defined under Section 301, Public Law 100-360, known as the Medicare Catastrophic Coverage Act of 1988, and whose income does not exceed one hundred percent (100%) of the nonfarm official poverty

level as defined by the Office of Management and Budget and revised annually.

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

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

(b) Individuals entitled to Part A of Medicare, with income above one hundred twenty percent (120%), but less than one hundred thirty-five percent (135%) of the federal poverty level, and not otherwise eligible for * * * Medicaid benefits, are limited to full payment of Medicare Part B premiums. The number of eligible individuals is limited by the availability of the federal capped allocation at one hundred percent (100%) of federal matching funds, as more fully defined in the Balanced Budget Act of 1997.

The eligibility of individuals covered under this paragraph shall be determined by the Division of Medicaid.

(14) [Deleted]

(15) Disabled workers who are eligible to enroll in Part A Medicare as required by Public Law 101-239, known as the Omnibus Budget Reconciliation Act of 1989, and whose income does not exceed two hundred percent (200%) of the federal poverty level as determined in accordance with the Supplemental Security Income (SSI) program. The eligibility of individuals covered under this

paragraph shall be determined by the Division of Medicaid and those individuals shall be entitled to buy-in coverage of Medicare Part A premiums only under the provisions of this paragraph (15).

(16) In accordance with the terms and conditions of approved Title XIX waiver from the United States Department of Health and Human Services, persons provided home- and community-based services who are physically disabled and certified by the Division of Medicaid as eligible due to applying the income and deeming requirements as if they were institutionalized.

(17) In accordance with the terms of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), persons who become ineligible for assistance under Title IV-A of the federal Social Security Act, as amended, because of increased income from or hours of employment of the caretaker relative or because of the expiration of the applicable earned income disregards, who were eligible for Medicaid for at least three (3) of the six (6) months preceding the month in which the ineligibility begins, shall be eligible for Medicaid for up to twelve (12) months. The eligibility of the individuals covered under this paragraph shall be determined by the division.

(18) Persons who become ineligible for assistance under Title IV-A of the federal Social Security Act, as amended, as a result, in whole or in part, of the collection or increased collection of child or spousal support under Title IV-D of the federal Social Security Act, as amended, who were eligible for Medicaid for at least three (3) of the six (6) months immediately preceding the month in which the ineligibility begins, shall be eligible for Medicaid for an additional four (4) months beginning with the month in which the ineligibility begins. The eligibility of the individuals covered under this paragraph shall be determined by the division.

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

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

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

The Division of Medicaid shall apply to the United States Secretary of Health and Human Services for a federal waiver of the applicable provisions of Title XIX of the federal Social Security Act, as amended, and any other applicable provisions of federal law as necessary to allow for the implementation of this paragraph (21). The provisions of this paragraph (21) shall be implemented from and after the date that the Division of Medicaid receives the federal waiver.

(22) Persons who are workers with a potentially severe disability, as determined by the division, shall be allowed to purchase Medicaid coverage. The term "worker with a potentially

severe disability" means a person who is at least sixteen (16) years of age but under sixty-five (65) years of age, who has a physical or mental impairment that is reasonably expected to cause the person to become blind or disabled as defined under Section 1614(a) of the federal Social Security Act, as amended, if the person does not receive items and services provided under Medicaid.

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

(23) Children certified by the Mississippi Department of Human Services for whom the state and county departments of human services have custody and financial responsibility who are in foster care on their eighteenth birthday as reported by the Mississippi Department of Human Services shall be certified Medicaid eligible by the Division of Medicaid until their twenty-first birthday.

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

(25) The division shall apply to the Centers for Medicare and Medicaid Services (CMS) for any necessary waivers to

provide services to individuals who are sixty-five (65) years of age or older or are disabled as determined under Section 1614(a)(3) of the federal Social Security Act, as amended, and whose income does not exceed one hundred thirty-five percent (135%) of the nonfarm official poverty level as defined by the Office of Management and Budget and revised annually, and whose resources do not exceed those established by the Division of Medicaid, and who are not otherwise covered by Medicare. Nothing contained in this paragraph (25) shall entitle an individual to benefits. The eligibility of individuals covered under this paragraph shall be determined by the Division of Medicaid.

(26) The division shall apply to the Centers for Medicare and Medicaid Services (CMS) for any necessary waivers to provide services to individuals who are sixty-five (65) years of age or older or are disabled as determined under Section 1614(a)(3) of the federal Social Security Act, as amended, who are end stage renal disease patients on dialysis, cancer patients on chemotherapy or organ transplant recipients on antirejection drugs, whose income does not exceed one hundred thirty-five percent (135%) of the nonfarm official poverty level as defined by the Office of Management and Budget and revised annually, and whose resources do not exceed those established by the division. Nothing contained in this paragraph (26) shall entitle an individual to benefits. The eligibility of individuals covered under this paragraph shall be determined by the Division of Medicaid.

(27) Individuals who are entitled to Medicare Part D and whose income does not exceed one hundred fifty percent (150%) of the nonfarm official poverty level as defined by the Office of Management and Budget and revised annually. Eligibility for payment of the Medicare Part D subsidy under this paragraph shall be determined by the division.

The division shall redetermine eligibility for all categories of recipients described in each paragraph of this section not less frequently than required by federal law.

The division shall conduct random drug testing for all applicants for assistance and for all categories of recipients pursuant to the requirements of Section 1 of this act.

SECTION 3. Section 43-17-1, Mississippi Code of 1972, is amended as follows:

43-17-1. (1) The State of Mississippi hereby accepts all of the mandatory provisions and benefits, with the exception of those provisions under which the state may exercise its options, of Title I of an act passed by the Senate and House of Representatives of the United States of America, in Congress assembled, entitled: "The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and known as the Temporary Assistance to Needy Families (TANF) program.

(2) The Department of Human Services shall have all necessary authority to cooperate with the federal government in the administration of Public Law 104-193 and all subsequent federal amendments thereto, to administer any legislation pursuant thereto enacted by the State of Mississippi, and to administer the funds provided by the federal government and the State of Mississippi under the provisions of Section 43-17-1 et seq., for providing temporary assistance for needy families with minor children. The Department of Human Services shall have full authority to formulate state plans consistent with state law as necessary to administer and operate federal grant funds which provide temporary assistance for needy families with minor children under Title IV-A of the federal Social Security Act. The Department of Human Services shall identify in any state plan submitted to implement the TANF program those requirements or restrictions, including persons excluded from program

participation which are required under federal law, and those program requirements or restrictions which the federal law authorizes but does not require.

(3) Any funds received by the State of Mississippi under the provisions of Public Law 104-193 shall be subject to appropriation by the Legislature and consistent with the terms and conditions required under such appropriation.

(4) The purpose of the Mississippi Temporary Assistance to Needy Families (TANF) program shall be to:

(a) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives when such care is beneficial and may be monitored on a random basis by the Department of Human Services or the State Department of Health;

(b) End the dependence of needy families on government benefits by promoting job preparation, work and marriage through, among other things, job placement, job training and job retention;

(c) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies;

(d) Encourage the formation and maintenance of two-parent families; and

(e) Prevent program fraud and abuse.

(5) The Department of Human Services shall develop outcome and output indicators for each program established under the authority of this section. These measures shall provide legislators and administrators with information which measures the success or failure of the department in implementing the programs implemented under the authority of this section. The department shall annually report to the Legislature the outputs and outcomes of these programs, with the first report due by December 15, 1997. Such reports shall include recommendations for making programs

more effective or efficient which can be effected in accordance with federal law.

(6) Assistance may be granted under this chapter to any dependent child and a caretaker relative who are living in a suitable family home meeting the standards of care and health and work requirements fixed by the laws of this state, and the rules and regulations of the State Department of Human Services.

(7) The Department of Human Services shall conduct random drug testing for all adult applicants for assistance pursuant to the requirements of Section 1 of this act.

SECTION 4. Section 71-5-511, Mississippi Code of 1972, is amended as follows:

71-5-511. An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

(a) (i) He has registered for work at and thereafter has continued to report to the department in accordance with such regulations as the department may prescribe; except that the department may, by regulation, waive or alter either or both of the requirements of this subparagraph as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this chapter; and

(ii) He participates in reemployment services, such as job search assistance services, if, in accordance with a profiling system established by the department, it has been determined that he is likely to exhaust regular benefits and needs reemployment services, unless the department determines that:

1. The individual has completed such services; or

2. There is justifiable cause for the claimant's failure to participate in such services.

(b) He has made a claim for benefits in accordance with the provisions of Section 71-5-515 and in accordance with such regulations as the department may prescribe thereunder.

(c) He is able to work and is available for work.

(d) He has been unemployed for a waiting period of one (1) week. No week shall be counted as a week of unemployment for the purposes of this subsection:

(i) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits;

(ii) If benefits have been paid with respect thereto;

(iii) Unless the individual was eligible for benefits with respect thereto, as provided in Sections 71-5-511 and 71-5-513, except for the requirements of this subsection.

(e) For weeks beginning on or before July 1, 1982, he has, during his base period, been paid wages for insured work equal to not less than thirty-six (36) times his weekly benefit amount; he has been paid wages for insured work during at least two (2) quarters of his base period; and he has, during that quarter of his base period in which his total wages were highest, been paid wages for insured work equal to not less than sixteen (16) times the minimum weekly benefit amount. For benefit years beginning after July 1, 1982, he has, during his base period, been paid wages for insured work equal to not less than forty (40) times his weekly benefit amount; he has been paid wages for insured work during at least two (2) quarters of his base period, and he has, during that quarter of his base period in which his total wages were highest, been paid wages for insured work equal to not less than twenty-six (26) times the minimum weekly benefit amount. For purposes of this subsection, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to

the date on which the employing unit by which such wages were paid has satisfied the conditions of Section 71-5-11, subsection I, or Section 71-5-361, subsection (3), with respect to becoming an employer.

(f) No individual may receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which he received benefits, he performed service in "employment" as defined in Section 71-5-11, subsection J, and earned remuneration for such service in an amount equal to not less than eight (8) times his weekly benefit amount applicable to his next preceding benefit year.

(g) Benefits based on service in employment defined in Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361, subsection (4) shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this chapter, except that benefits based on service in an instructional, research or principal administrative capacity in an institution of higher learning (as defined in Section 71-5-11, subsection O) with respect to service performed prior to January 1, 1978, shall not be paid to an individual for any week of unemployment which begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher learning for both such academic years or both such terms.

(h) Benefits based on service in employment defined in Section 71-5-11, subsection J(3) and J(4), shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this chapter, except that:

(i) With respect to service performed in an instructional, research or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two (2) regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual, if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and provided that subsection (g) of this section shall apply with respect to such services prior to January 1, 1978. In no event shall benefits be paid unless the individual employee was terminated by the employer.

(ii) With respect to services performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two (2) successive academic years or terms, if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if compensation is denied to any individual under this subparagraph and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause. In no event shall benefits be paid unless the individual employee was terminated by the employer.

(iii) With respect to services described in subsection (h)(i) and (ii), benefits shall not be payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the first of such academic years or terms, or in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(iv) With respect to any services described in subsection (h)(i) and (ii), benefits shall not be payable on the basis of services in any such capacities as specified in subsection (h)(i), (ii) and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subsection, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(v) With respect to services to which Sections 71-5-357 and 71-5-359 apply, if such services are provided to or on behalf of an educational institution, benefits shall not be payable under the same circumstances and subject to the same terms and conditions as described in subsection (h)(i), (ii), (iii) and (iv).

(i) Subsequent to December 31, 1977, benefits shall not be paid to any individual on the basis of any services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sports seasons (or similar periods) if such individual performs such services in the first of such seasons (or similar

periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(j) (i) Subsequent to December 31, 1977, benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).

(ii) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(iii) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made, except upon a preponderance of the evidence.

(k) An individual shall be deemed prima facie unavailable for work, and therefore ineligible to receive benefits, during any period which, with respect to his employment status, is found by the department to be a holiday or vacation period.

(l) A temporary employee of a temporary help firm is considered to have left the employee's last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee is not considered to have left work voluntarily without good cause

connected with the work under this paragraph unless the temporary employee has been advised in writing:

(i) That the temporary employee is obligated to contact the temporary help firm on completion of assignments; and

(ii) That unemployment benefits may be denied if the temporary employee fails to do so.

(m) An individual shall only be eligible for benefits under this chapter if he has submitted to random drug testing pursuant to the provisions of Section 1 of this act.

SECTION 5. Section 43-33-15, Mississippi Code of 1972, is amended as follows:

43-33-15. In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons of low income;

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding;

(c) The dwellings in low-rent housing as defined in this article shall be available solely for families whose net annual income at the time of admission, less an exemption of One Hundred Dollars ($100.00) for each minor member of the family other than the head of the family and his spouse, does not exceed five (5) times the annual rental (including the value or cost to them of water, electricity, gas, other heating and cooking fuels, and other utilities) of the dwellings to be furnished such families. For the purpose of determining eligibility for continued occupancy, a public housing agency shall allow, from the net income of any family, an exemption for each minor member of

the family (other than the head of the family and his spouse) of either (a) One Hundred Dollars ($100.00), or (b) all or any part of the annual income of such minor. For the purpose of this paragraph, a minor shall mean a person less than twenty-one (21) years of age.

Nothing contained in this section or Section 43-33-13 shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or Section 43-33-13.

An authority shall only provide housing assistance benefits to individuals who have submitted to random drug testing pursuant to the provisions of Section 1 of this act.

SECTION 6. This act shall take effect and be in force from and after July 1, 2012.

ST: Public assistance benefits; require applicants to submit to random drug testing to qualify.