MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Turner

To: Insurance;
Appropriations

HOUSE BILL NO. 340

AN ACT TO BE KNOWN AS THE PATIENT CHOICE ACT OF 2021; TO CREATE NEW SECTION 83-41-221, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN INSURED IS ENTITLED TO BENEFITS UNDER A HEALTH BENEFIT PLAN IF THE HEALTH BENEFIT PLAN PROVIDES FOR REIMBURSEMENT FOR THE SERVICE IF PERFORMED BY A DULY LICENSED PHYSICIAN OR PODIATRIST AND THE SERVICE IS PERFORMED BY A DULY LICENSED PHYSICIAN OR PODIATRIST; TO CREATE NEW SECTION 83-41-223, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A HEALTH BENEFIT PLAN SHALL NOT DISCRIMINATE AGAINST ANY PHYSICIAN WHO IS LOCATED WITHIN THE GEOGRAPHIC COVERAGE AREA OF THE HEALTH BENEFIT PLAN AND WHO IS WILLING TO MEET THE TERMS AND CONDITIONS FOR PARTICIPATION ESTABLISHED BY THE HEALTH BENEFIT PLAN; TO CREATE NEW SECTION 83-41-225, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE OR PROHIBIT THE SAME REIMBURSEMENT TO DIFFERENT TYPES OF PHYSICIANS WHOSE LICENSED SCOPE OF SPECIALTY PRACTICE DIFFERS; TO PROVIDE THAT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE OR PROHIBIT COVERAGE OF THE SERVICES OF ANY PARTICULAR TYPE OF PROVIDER; TO CREATE NEW SECTION 83-41-227, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A HEALTH BENEFIT PLAN SHALL NOT, DIRECTLY OR INDIRECTLY, PROHIBIT OR LIMIT A PHYSICIAN THAT IS QUALIFIED UNDER THIS ARTICLE AND IS WILLING TO ACCEPT THE HEALTH BENEFIT PLAN'S OPERATING TERMS AND CONDITIONS, SCHEDULE OF FEES, COVERED EXPENSES AND UTILIZATION REGULATIONS AND QUALITY STANDARDS, FROM THE OPPORTUNITY TO PARTICIPATE IN THAT PLAN; TO PROVIDE THAT NOTHING IN THIS ARTICLE SHALL PREVENT A HEALTH BENEFIT PLAN FROM INSTITUTING MEASURES DESIGNED TO MAINTAIN QUALITY AND TO CONTROL COSTS, INCLUDING, BUT NOT LIMITED TO, THE UTILIZATION OF A GATEKEEPER SYSTEM, AS LONG AS SUCH MEASURES ARE IMPOSED EQUALLY ON ALL PROVIDERS IN THE SAME CLASS; TO CREATE NEW SECTION 83-41-229, MISSISSIPPI CODE OF 1972, TO CLARIFY HOW THE ARTICLE SHOULD BE CONSTRUED; TO CREATE NEW SECTION 83-41-231, MISSISSIPPI CODE OF 1972, TO CLARIFY THE COMMISSIONER OF INSURANCE'S POWERS AND DUTIES REGARDING ARTICLE 5, CHAPTER 41, TITLE 83; TO AMEND SECTIONS 83-41-203, 83-41-211, 83-41-213 AND

83-41-215, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN EXISTING LAWS PROVIDING FOR CHOICE OF PRACTITIONER; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the Patient Choice Act of 2021.

SECTION 2. The following shall be codified as Section 83-41-221, Mississippi Code of 1972:

83-41-221. (1) From and after July 1, 2021, whenever any health benefit plan provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed physician or podiatrist who is licensed under the Mississippi Board of Medical Licensure, the insured or other person entitled to benefits under such health benefit plan shall be entitled to reimbursement for such services if performed by a duly licensed physician or podiatrist. Any duly licensed physician or podiatrist shall be entitled to participate in such health benefit plan providing for reimbursement for any service which is within the lawful scope of practice of a duly licensed physician or podiatrist.

It is the intent of the Legislature by this section to provide for increased access of health delivery services to the underserved.

(2) Any duly licensed physician or podiatrist shall not be entitled to participate in a health benefit plan described in subsection (1) of this section if he or she is committing an act of fraud or other illegal activity.

SECTION 3. The following shall be codified as Section 83-41-223, Mississippi Code of 1972:

83-41-223. A health benefit plan shall not discriminate against any physician who is located within the geographic coverage area of the health benefit plan and who is willing to meet the terms and conditions for participation established by the health benefit plan. Therefore, notification of acceptance should occur within sixty (60) days of completed application to such health benefit plan.

SECTION 4. The following shall be codified as Section 83-41-225, Mississippi Code of 1972:

83-41-225. Nothing in this article shall be construed to require or prohibit the same reimbursement to different types of physicians whose licensed scope of specialty practice differs nor shall anything in this article be construed to require or prohibit coverage of the services of any particular type of provider.

SECTION 5. The following shall be codified as Section 83-41-227, Mississippi Code of 1972:

83-41-227. (1) A health benefit plan shall not, directly or indirectly, prohibit or limit a physician that is qualified under this article and is willing to accept the health benefit plan's operating terms and conditions, schedule of fees, covered expenses and utilization regulations and quality standards, from the opportunity to participate in that plan.

(2) Nothing in this article shall prevent a health benefit plan from instituting measures designed to maintain quality, to provide merit, shared savings, or monetary rewards through controlling costs and to control costs, including, but not limited to, the utilization of a gatekeeper system, as long as such measures are imposed equally on all providers in the same class.

SECTION 6. The following shall be codified as Section 83-41-229, Mississippi Code of 1972:

83-41-229. (1) This article shall not be construed:

(a) To require all physicians or a percentage of physicians in the state or a locale to participate in the provision of services for a health benefit plan; or

(b) To take away the authority of health benefit plans that provide coverage of physician services to set the terms and conditions for participation by physicians, though health benefit plans shall apply such terms and conditions in a nondiscriminatory manner.

(2) This article shall apply to:

(a) All health benefit plans, regardless of whether they are providing insurance, including pre-paid coverage, or administering or contracting to provide provider networks; and

(b) All multiple employer welfare arrangements and multiple employer trusts.

SECTION 7. The following shall be codified as Section 83-41-231, Mississippi Code of 1972:

83-41-231. The Commissioner of Insurance acting through the department, shall:

(a) Enforce this article using powers granted to the commissioner in the Mississippi Insurance Code.

(b) Be entitled to seek an injunction against a health insurer in a court of competent jurisdiction.

SECTION 8. Section 83-41-203, Mississippi Code of 1972, is amended as follows:

83-41-203. (1) Whenever any policy of insurance or any medical service plan or hospital service contract or hospital and medical service contract issued, delivered, administered, continued or renewed in this state (hereinafter referred to in this article as "health benefit plan") provides for reimbursement for any visual service which is within the lawful scope of practice of a duly licensed optometrist as defined in Section 73-19-1, * * * the insured or other person entitled to benefits under such * * * health benefit plan shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician or by a duly licensed optometrist, * * * plan or contract. Duly licensed optometrists shall be entitled to participate in such policies, plans, or contracts providing for visual services, as authorized by Sections 73-19-1 and 43-3-67, * * * to the same extent as duly licensed physicians.

(2) Any duly licensed optometrist or duly licensed physician shall not be entitled to participate in a health benefit plan described in subsection (1) of this section if he or she is committing an act of fraud or other illegal activity.

SECTION 9. Section 83-41-211, Mississippi Code of 1972, is amended as follows:

83-41-211. (1) Whenever any * * * health benefit plan provides for reimbursement for any diagnosis and treatment of mental, nervous or emotional disorders only which are within the lawful scope of practice of a duly licensed psychologist as defined in Section 73-31-3, within the lawful scope of practice of a duly licensed professional counselor as defined in Section 73-30-3, within the lawful scope of practice of a duly licensed clinical social worker as defined in Section 73-53-3, or within the lawful scope of practice of a duly licensed marriage and family therapist as defined in Section 73-54-5, the insured or other person entitled to benefits under such * * * health benefit plan shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician or by a duly licensed psychologist, by a duly licensed professional counselor, by a duly licensed clinical social worker or by a duly licensed marriage and family therapist * * *. Duly licensed psychologists shall be entitled to participate in such * * * health benefit plans providing for the diagnosis and treatment of mental, nervous or emotional disorders only as authorized by

Section 73-31-3. A duly licensed professional counselor shall be entitled to participate in such * * * health benefit plans providing for the diagnosis and treatment of mental, nervous or emotional disorders only as authorized by Section 73-30-3. A duly licensed clinical social worker shall be entitled to participate in such * * * health benefit plans providing for the diagnosis and treatment of mental, nervous or emotional disorders only as authorized by Section 73-53-3. A duly licensed marriage and family therapist shall be entitled to participate in such * * * health benefit plans providing for the diagnosis and treatment of mental, nervous or emotional disorders only as authorized by Section 73-54-5 et seq. The addition of marriage and family therapists as providers herein is intended to only allow them to treat mental, nervous or emotional disorders as treated by other providers, to the extent that marriage and family therapists are qualified to treat such disorders. Notwithstanding anything in this section to the contrary, the scope or definition of mental, nervous or emotional disorders shall remain the same and shall not be expanded by the addition of marriage and family therapists as allowable providers.

(2) Any duly licensed psychologist, duly licensed professional counselor, duly licensed clinical social worker, duly licensed marriage and family therapist or duly licensed physician shall not be entitled to participate in a health benefit plan

described in subsection (1) of this section if he or she is committing an act of fraud or other illegal activity.

SECTION 10. Section 83-41-213, Mississippi Code of 1972, is amended as follows:

83-41-213. (1) From and after January 1, 1999, whenever any * * * health benefit plan provides for reimbursement for any service which is within the lawful scope of practice of a duly * * * licensed nurse practitioner as provided for by rules and regulations implemented by the Mississippi Board of Nursing under Section 73-15-5(2), the insured or other person entitled to benefits under such * * * health benefit plan shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician or by a duly * * * licensed nurse practitioner * * *. Duly * * * licensed nurse practitioners shall be entitled to participate in such * * * health benefit plans providing for the services of nurse practitioners, as authorized by the rules and regulations implemented by the Mississippi Board of Nursing under Section 73-15-5(2). Reimbursement shall be based on services rendered by a duly * * * licensed nurse practitioner.

It is the intent of the Legislature by this section to provide for increased access of health delivery services to the underserved.

(2) Any duly licensed nurse practitioner or duly licensed physician shall not be entitled to participate in a health benefit

plan described in subsection (1) of this section if he or she is committing an act of fraud or other illegal activity.

SECTION 11. Section 83-41-215, Mississippi Code of 1972, is amended as follows:

83-41-215. (1) Whenever any *** * *** health benefit plan provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed chiropractor as defined in Section 73-6-1, *** * *** then such service may be performed by a duly licensed chiropractor, and the insured or other person entitled to benefits under such *** * *** health benefit plan shall be entitled to reimbursement for such services. The insured shall have the right to choose the place where the service is to be performed as well as the chiropractor to perform such service, provided that such service shall be performed in the chiropractor's office, clinic or regular place of business. Any duly licensed chiropractor shall be entitled to participate in such health benefit plan providing for reimbursement for any service which is within the lawful scope of practice of a duly licensed chiropractor.

(2) Any duly licensed chiropractor shall not be entitled to participate in a health benefit plan described in subsection (1) of this section if he or she is committing an act of fraud or other illegal activity.

SECTION 12. This act shall take effect and be in force from and after July 1, 2021.