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Chapter No. 434
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HOUSE BILL NO. 1391

Originated in House  Clerk

HOUSE BILL NO. 1391

AN ACT TO CREATE NEW SECTION 43-13-116.1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DIVISION OF MEDICAID TO DEVELOP AND OPERATE A DATA MATCH SYSTEM WITH FINANCIAL INSTITUTIONS TO VERIFY THE ASSETS OF CERTAIN APPLICANTS FOR AND RECIPIENTS OF MEDICAID ASSISTANCE; TO AMEND SECTION 81-5-55, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 43-13-116.1, Mississippi Code of 1972:

43-13-116.1. (1) For purposes of this section:

(a) "Financial institution" has the meaning given by Sections 81-3-1 and 81-12-3, and shall include, but not be limited to, credit unions, stock brokerages, public or private entities administering retirement, savings, annuities, life insurance and/or pension funds.

(b) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account or money-market account.

(2) In accordance with Section 1940 of the federal Social Security Act (42 USCS Section 1396w), the Division of Medicaid shall implement an asset verification program requiring each applicant for or recipient of Medicaid assistance on the basis of being aged, blind or disabled, to provide authorization by the applicant or recipient, their spouse, and by any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for Medicaid assistance, for the division to obtain from any financial institution financial records and information held by any such

financial institution with respect to the applicant, recipient, spouse or such other person, as applicable, that the division determines are needed to verify the financial resources of the applicant, recipient or such other person in connection with a determination or redetermination with respect to eligibility for, or the amount or extent of, Medicaid assistance. Each aged, blind or disabled Medicaid applicant or recipient, their spouse, and any other applicable person described in this section shall provide authorization (as specified by 42 USCS Section 1396w(c)) to the division to obtain from any financial institution, any financial record, whenever the division determines that the record is needed in connection with a determination or redetermination of eligibility for Medicaid assistance.

(3) (a) In connection with the asset verification program, the division is authorized to enter into agreements with financial institutions doing business in the state:

(i) To develop and operate a data match system, using automated data exchanges, in which the division will provide to the financial institution, on a quarterly or more frequent basis, the name, social security number or other taxpayer identification number, and any other necessary identifying information for each applicant for or recipient of Medicaid assistance and for each other person whose resources are required to be disclosed to determine the eligibility of the applicant or recipient for Medicaid assistance; and

(ii) Provide for payment to the financial institution of the reasonable costs of the institution for conducting the data matches and for responding to other requests made under this section, in accordance with the cost reimbursement requirements of Section 1115(a) of the Federal Right to Financial Privacy Act, 12 USCS Section 3415, as amended.

(b) Any financial institution doing business in the State of Mississippi may enter into agreements with the division

to engage in the data match system and also to disclose any accounts held by the institution on behalf of the persons so identified by the division and, if requested by the division, the account numbers, account balances, and all names and addresses and social security or other tax identification numbers on record for those accounts.

(4) When the operation of the data match system results in the location of an account of an applicant for or recipient of Medicaid assistance or a person whose resources are required to be disclosed to determine the eligibility of the applicant or recipient for Medicaid assistance, the division may request and the financial institution may provide any additional financial records and information held by the financial institution as the division determines are needed to establish, continue, modify or terminate eligibility for Medicaid assistance.

(5) A financial institution:

(a) Shall have no liability for failing to disclose to any account holder or depositor that the name of the person has been received from the division or that the financial institution has furnished financial records or information pertaining to the account holder or depositor to the division under this section;

(b) Shall have no liability for any delays, errors or omissions in conducting the data matches or in responding to other requests for records or information made under this section, which delays, errors or omissions result from circumstances beyond the control of the institution or from any unintentional, bona fide error, including, but not limited to, clerical or computer malfunction or programming error; and

(c) Shall be absolutely immune from any civil or criminal liability to any person under any contract, common law, statute or regulation for the disclosure to the division, or to any authorized contractor or agents thereof, of any information, accounts, assets, financial records or information under this

article, the agreements referred to in subsection (4) of this section, or in response to any notice or request issued by the division or by any authorized contractors or agents thereof, or for any action or omission taken or omitted in good faith to comply with the requirements of this article.

SECTION 2. Section 81-5-55, Mississippi Code of 1972, is amended as follows:

81-5-55. In no instance shall the name of any depositor, or the amount of his deposit, be disclosed to anyone, except to report to approved parties, such as credit bureaus, account verification services and others, the forcible closure of a deposit account due to misuse, such as fraud, kiting or chronic bad check writing or when required to be done in legal proceedings, for verification of public assistance in cases in which * * * the Department of Human Services or the Division of Medicaid certifies that it has on file an effective written authorization from the depositor authorizing the disclosure of that information, for verification of the financial exploitation of a vulnerable person in cases in which the Attorney General submits a written authorization, or in case of insolvency of banks. The parties referred to in this section must be approved by the Commissioner of Banking and Consumer Finance and must satisfactorily demonstrate their reliability and credibility of their activities. Disclosure of depositor information to any affiliate or agent providing services on behalf of the bank shall not be considered disclosure of depositor information within the meaning of this section. The term "affiliate" means a corporation or business entity that controls, is controlled by or is under common control with the bank. The term "agent" means anyone who has an agreement, arrangement or understanding to transact business for the bank by the authority and on account of the bank, provided that the agreement binds the agent to the same degree of confidentiality of disclosure of bank records as the bank. Any

violation of this provision shall be considered a misdemeanor and, upon conviction thereof, in any court of competent jurisdiction, the person shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail not more than six (6) months or both, and in addition thereto, shall be liable upon his bond to any person damaged thereby.

This section shall not be construed to prohibit the disclosure to the State Treasurer, State Auditor, Legislative Budget Office, Joint Legislative Committee on Performance Evaluation and Expenditure Review or the Department of Finance and Administration, of any information about any type of account or investment, including certificates of deposit, owned by any public entity of the State of Mississippi. In addition, this section shall not be construed to prohibit, or to impose liability for, the disclosure of information to the Department of Human Services, the Child Support Unit of the Department of Human Services, the Division of Medicaid, or their contractors or agents, pursuant to Chapter 13 or Chapter 19 of Title 43, Mississippi Code of 1972.

SECTION 3. Not later than December 31, 2013, the Division of Medicaid shall report to the Legislature the financial institution participation rate in the data match system established under this act, the amount of the savings achieved by the division through the asset verification program established under this act, and all expenditures by the division in relation to the program, including reimbursement to financial institutions and payments to vendors, contractors and consultants associated with the program.

SECTION 4. This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 9, 2012



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 9, 2012



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

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