

April 9, 2002

TO THE MISSISSIPPI STATE SENATE:

GOVERNOR'S VETO MESSAGE FOR SENATE BILL 2189

I am returning Senate Bill Number 2189: "AN ACT TO AMEND SECTION 43-13-117, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 1200 AND SENATE BILL NO. 3060, 2002 REGULAR SESSION, TO AUTHORIZE UNLIMITED DAY REIMBURSEMENT FOR DISPROPORTIONATE SHARE PROGRAM HOSPITALS FOR ELIGIBLE CHILDREN UNDER THE AGE OF SIX ONLY IF CERTIFIED AS MEDICALLY NECESSARY; TO AUTHORIZE A JOINT LEGISLATIVE STUDY COMMITTEE TO CONSIDER THE ISSUE OF SETTING UNIFORM REIMBURSEMENT RATES FOR NURSING HOMES; TO DELETE SPECIFIC FEE INCREASES FOR PERIODIC SCREENING AND DIAGNOSTIC SERVICES; TO DIRECT THE DIVISION TO ESTABLISH A CLOSED DRUG FORMULARY; TO PROVIDE THAT THE MONTHLY LIMIT ON PRESCRIPTION DRUGS DOES NOT APPLY TO INSTITUTIONALIZED RECIPIENTS; TO PROVIDE THAT THE PRIOR APPROVAL REQUIREMENT FOR PRESCRIPTIONS ABOVE A CERTAIN NUMBER APPLIES TO ALL RECIPIENTS; TO AUTHORIZE MEDICAID REIMBURSEMENT FOR MENTAL HEALTH SERVICES PROVIDED IN THE COMMUNITY BY A FACILITY OR PROGRAM OPERATED BY THE DEPARTMENT OF MENTAL HEALTH; TO REVISE THE CONDITIONS FOR REIMBURSEMENT OF THE COST OF EYEGLASSES FOR RECIPIENTS; TO CLARIFY THE REQUIREMENT FOR DISPROPORTIONATE SHARE PROGRAM HOSPITALS TO PARTICIPATE IN THE FEDERAL INTERGOVERNMENTAL TRANSFER PROGRAM; TO AUTHORIZE THE DIVISION OF MEDICAID TO ESTABLISH A MEDICARE UPPER PAYMENT LIMITS PROGRAM FOR NURSING FACILITIES; TO CHANGE CERTAIN REFERENCES TO THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT; TO AUTHORIZE MEDICAID REIMBURSEMENT TO RURAL HEALTH CENTERS FOR AMBULATORY SERVICES; TO AUTHORIZE FUNDS TRANSFERRED TO THE DEPARTMENT OF MENTAL HEALTH BY A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE TO BE USED AS MEDICAID MATCH FOR REIMBURSEMENT OF HOME- AND COMMUNITY-BASED SERVICES FOR DEVELOPMENTALLY DISABLED PEOPLE; TO AUTHORIZE MEDICAID REIMBURSEMENT TO CHIROPRACTORS FOR X-RAYS PERFORMED TO DOCUMENT CONDITIONS; TO AUTHORIZE THE DIVISION TO APPLY FOR FEDERAL WAIVERS THAT MAY ENHANCE THE POPULATION HEALTH MANAGEMENT PROGRAM; TO PROVIDE MEDICAID REIMBURSEMENT FOR PEDIATRIC LONG-TERM ACUTE CARE HOSPITAL SERVICES; TO EXEMPT NONEMERGENCY TRANSPORTATION SERVICES FROM THE REQUIREMENT FOR A COPAYMENT; TO PROVIDE THAT THE FIVE PERCENT REDUCTION IN PROVIDER REIMBURSEMENTS IMPOSED BY HOUSE BILL NO. 1200, 2002 REGULAR SESSION, SHALL NOT APPLY TO THOSE HEALTH CARE FACILITIES UPON WHICH AN ASSESSMENT IS LEVIED UNDER SECTION 43-13-145, MISSISSIPPI CODE OF 1972; TO PROVIDE THAT THE FIVE PERCENT REDUCTION ALSO SHALL NOT APPLY TO CERTAIN SERVICES PROVIDED BY PLANNING AND DEVELOPMENT DISTRICTS IF THE DISTRICTS TRANSFER CERTAIN SUMS TO THE DIVISION; TO AMEND SECTION 43-13-121, MISSISSIPPI CODE OF 1972, TO CLARIFY AND REVISE THE CONDITIONS FOR DENYING OR REVOKING PROVIDER ENROLLMENT IN THE MEDICAID PROGRAM; TO AMEND SECTION 43-13-123, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE DIVISION SHALL OBTAIN SERVICES IN ACCORDANCE WITH REGULATIONS OF THE PERSONAL SERVICE CONTRACT REVIEW BOARD; TO AMEND SECTION 43-13-127, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DIVISION OF MEDICAID TO SUBMIT A MONTHLY REPORT TO THE CHAIRMEN OF THE SENATE AND HOUSE PUBLIC HEALTH AND WELFARE COMMITTEES AND TO THE JOINT LEGISLATIVE BUDGET COMMITTEE; TO AMEND SECTION 43-13-145, MISSISSIPPI CODE OF 1972, TO INCREASE THE MEDICAID ASSESSMENT ON NURSING HOME BEDS AND PROVIDE FOR MEDICAID ASSESSMENTS ON OTHER HEALTH CARE FACILITIES; TO PROVIDE FOR THE COLLECTION OF THOSE ASSESSMENTS; TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ADDITION OR CONVERSION OF ANY NUMBER OF BEDS OF A HEALTH CARE FACILITY SHALL REQUIRE APPROVAL BY A CERTIFICATE OF NEED; TO DIRECT THE STATE DEPARTMENT OF HEALTH TO TRANSFER A CERTAIN CERTIFICATE OF NEED AUTHORIZING PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY BEDS IN WARREN COUNTY; AND FOR RELATED PURPOSES" without my approval, and assign the following reasons for my veto.

I hereby veto Senate Bill No. 2189 that makes technical amendments to the laws governing the Division of Medicaid because it compounds and complicates the existing problems with the funding and administration of this agency.

Although this bill is adopted in the name of achieving savings in the Medicaid program, there are several instances where private and special interests prevail to unnecessarily increase the costs of the program. Examples include the failure to freeze the certification of new expensive nursing home beds for Medicaid while there exists unused capacity; the potential cost to the program is over \$6 million from the State General Fund. Additionally, certification for less expensive expansion of existing facilities is capped at 10% while there is no limit on new, expensive construction.

Also, co-payments on non-emergency transportation for Medicaid recipients to offset transportation costs were eliminated, depriving the Division of the means to gain control of expenses. There is true need for a more cost

effective prescription drug program, but the closed formulary approach, while well intentioned, is legally questionable.

These are only three instances in Senate Bill No. 2189 of expensive micromanagement of a complex, \$2.5 billion agency. Growth of the program is not curbed but expanded, and in unnecessary ways. More specific mandates are imposed on the Division instead of the flexibility to allocate resources to greatest need. This is exactly backwards. The flaws in this bill mirror the inadequacies of House Bill No. 1794, the appropriation bill for the Medicaid Division, and they should both be reconsidered together.

I urge the members to sustain the veto and reject Senate Bill No. 2189.

Respectfully submitted

A handwritten signature in black ink, reading "Ronnie Musgrove". The signature is written in a cursive style with a large, sweeping initial "R" and a long, trailing flourish at the end.

RONNIE MUSGROVE
GOVERNOR