

Senate Bill 96

By: Senators Unterman of the 45th, Thomas of the 54th, Price of the 56th and Kemp of the 46th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to insurance, so as to require health benefit policy
3 coverage for off-label prescription drug use for insureds with life-threatening or chronic and
4 disabling conditions or diseases; to provide definitions; to provide for conditions of coverage;
5 to provide for exclusions; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
10 general provisions relative to insurance, is amended by inserting at the end thereof a new
11 Code section to be designated Code Section 33-24-59.11 to read as follows:

12 "33-24-59.11.

13 (a) As used in this Code section, the term:

14 (1) 'Chronic and seriously debilitating' means diseases or conditions that cause
15 significant long-term morbidity and that require ongoing treatment to maintain remission
16 or prevent deterioration.

17 (2) 'Health benefit policy' means any individual or group plan, policy, or contract for
18 health care services issued, delivered, issued for delivery, executed, or renewed in this
19 state on or after July 1, 2003, including, but not limited to, those contracts executed by
20 the State of Georgia on behalf of state employees under Article 1 of Chapter 18 of
21 Title 45, by an insurer; provided, however, that 'health benefit policy' shall not include
22 the limited benefit policies as defined in paragraph (4) of subsection (e) of Code
23 Section 33-30-12.

24 (3) 'Insurer' means any person, corporation, or other entity authorized to provide health
25 benefit policies under this title.

26 (4) 'Life-threatening' means:

1 (A) Diseases or conditions where the likelihood of death is high unless the course of
2 the disease is interrupted;

3 (B) Diseases or conditions with potentially fatal outcomes, where the end point of
4 clinical intervention is survival; or

5 (C) The natural process of aging shall not be construed as a disease or condition for the
6 purposes of this definition or this Code section.

7 (b) No health benefit policy issued, delivered, or renewed in this state that, as a provision
8 of hospital, medical, or surgical services, directly or indirectly covers prescription drugs
9 shall limit or exclude coverage for a drug on the basis that the drug is prescribed for a use
10 that is different from the use for which that drug has been approved for marketing by the
11 federal Food and Drug Administration, provided that all of the following conditions have
12 been met and subject to the prior authorization process or other restrictions of the insurer:

13 (1) The drug has been approved by the federal Food and Drug Administration;

14 (2)(A) The drug is prescribed by a contracting licensed health care professional for the
15 treatment of a life-threatening disease or condition;

16 (B) The drug is prescribed by a contracting licensed health care professional for the
17 treatment of a chronic and seriously debilitating disease or condition, the drug is
18 medically necessary to treat that disease or condition, and the drug is on the insurer's
19 formulary or preferred drug list, if any; or

20 (C) The drug is prescribed by a contracting licensed health care professional to treat
21 a disease or condition in a child where the drug has been approved by the federal Food
22 and Drug Administration for similar conditions or diseases in adults and the drug is
23 medically necessary to treat that disease or condition; and

24 (3) The drug has been recognized for treatment of that disease or condition or pediatric
25 application by one of the following:

26 (A) The American Medical Association Drug Evaluations;

27 (B) The American Hospital Formulary Service Drug Information; or

28 (C) The United States Pharmacopoeia Dispensing Information, Volume 1, 'Drug
29 Information for the Health Care Professional'; or

30 (D) Two articles from major peer reviewed medical journals that present data
31 supporting the proposed off-label use or uses as generally safe and effective unless
32 there is clear and convincing contradictory evidence presented in a major peer reviewed
33 medical journal.

34 (c) It shall be the responsibility of the contracting prescriber to submit to the insurer
35 documentation supporting compliance with the requirements of subsection (b) of this Code
36 section, if requested by the insurer.

1 (d) Any coverage required by this Code section shall also include medically necessary
2 services associated with the administration of a drug subject to the conditions of the
3 contract.

4 (e) The provisions of this Code section shall not be deemed to require coverage for any of
5 the following:

6 (1) The treatment of a condition or disease that is excluded under the terms of the health
7 benefit policy;

8 (2) An experimental drug not approved for indication by the federal Food and Drug
9 Administration; or

10 (3) Drug treatment by a drug not listed on the health benefit plan formulary or preferred
11 drug list.

12 (f) The benefits provided in this Code section shall be subject to the same annual
13 deductibles or coinsurance established for all other covered benefits within a given health
14 benefit policy."

15 **SECTION 2.**

16 All laws and parts of laws in conflict with this Act are repealed.