

Senate Bill 96

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

**AS PASSED**

**A BILL TO BE ENTITLED  
AN ACT**

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

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

7 **SECTION 1.**

8 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
9 adding a new paragraph (1.1) to Code Section 33-1-2, relating to definitions, to read as  
10 follows:

11 "(1.1) 'Health benefit policy,' 'health benefit plan,' or other similar terms do not include  
12 limited benefit insurance policies designed, advertised, and marketed to supplement  
13 major medical insurance such as accident only, Champus supplement, dental, disability  
14 income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision,  
15 and any other type of accident and sickness insurance other than basic hospital expense,  
16 basic medical-surgical expense, or major medical insurance."

17 **SECTION 2.**

18 Said title is further amended by inserting a new Code Section 33-24-59.11 to read as follows:

19 "33-24-59.11.

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

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

24 (2) 'Health benefit policy' means any individual or group plan, policy, or contract for  
25 health care services issued, delivered, issued for delivery, executed, or renewed in this

1 state on or after July 1, 2003, including, but not limited to, those contracts executed by  
2 the State of Georgia on behalf of state employees under Article 1 of Chapter 18 of  
3 Title 45, by an insurer; provided, however, that 'health benefit policy' shall not include  
4 the limited benefit policies as defined in paragraph (4) of subsection (e) of Code Section  
5 33-30-12.

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

8 (4) 'Life-threatening' means:

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

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

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

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

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

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

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

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

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

34 (A) The American Medical Association Drug Evaluations;

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

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

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

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

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

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

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

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

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

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

### 24 SECTION 3.

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