

House Bill 1462

By: Representatives Stephens of the 123rd, Parham of the 94th, Graves of the 106th, and Parrish of the 102nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to
2 indigent and elderly patients, so as to provide for a fee to be imposed on prescription drug
3 orders to be used to obtain federal financial participation for medical assistance payments to
4 health care providers that serve the medically indigent; to provide for a short title; to provide
5 for definitions; to establish a segregated account within the Indigent Care Trust Fund for the
6 deposit of provider fees; to provide for a method for calculating and collecting the provider
7 fee; to authorize the Department of Community Health to inspect pharmacy records for
8 purposes of auditing provider fees; to provide for penalties for failure to pay a provider fee;
9 to authorize the department to withhold Medicaid payments equal to amounts owed as a
10 provider fee and penalty; to provide for the collection of fees by civil action and tax liens;
11 to provide for the appropriation of funds in the segregated account for medical assistance
12 payments to health care providers; to provide for termination of the fee; to provide for related
13 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to indigent and
17 elderly patients, is amended by adding a new article at the end thereof, to be designated
18 Article 8, to read as follows:

19 "ARTICLE 8

20 31-8-200.

21 This article shall be known and may be cited as 'The Pharmacy Services Fee Act.'

1 31-8-201.

2 This article is passed pursuant to the authority of Article III, Section IX, Paragraph VI(i)
3 of the Constitution.

4 31-8-202.

5 As used in this article, the term:

6 (1) 'Department' means the Department of Community Health created by Chapter 5A of
7 this title.

8 (2) 'Medically indigent' means a person who meets the state-wide standards of indigency
9 adopted by the department.

10 (3) 'Pharmacy' means a pharmacy as defined in paragraph (30) of Code Section 26-4-5,
11 as amended.

12 (4) 'Prescription drug order' means a prescription drug order as defined in paragraph (36)
13 of Code Section 26-4-5, as amended.

14 (5) 'Provider fee' means the fee imposed pursuant to this article for the privilege of
15 operating a pharmacy.

16 (6) 'Segregated account' means an account for the dedication and deposit of provider fees
17 which is established within the Indigent Care Trust Fund created pursuant to Code
18 Section 31-8-152.

19 (7) 'Trust fund' means the Indigent Care Trust Fund created pursuant to Code Section
20 31-8-152.

21 31-8-203.

22 There is established within the trust fund a segregated account for revenues raised through
23 the imposition of the provider fee. All revenues raised through provider fees shall be
24 credited to the segregated account within the trust fund and shall be invested in the same
25 manner as authorized for investing other moneys in the state treasury. Contributions and
26 transfers to the trust fund pursuant to Code Sections 31-8-153 and 31-8-153.1 shall not be
27 deposited into the segregated account.

28 31-8-204.

29 (a) Each pharmacy shall be assessed a provider fee of 10¢ with respect to each initial or
30 refill prescription drug order for the preceding quarter, excluding medicare program patient
31 days. The provider fee shall be assessed uniformly upon all pharmacies.

32 (b) The provider fee shall be paid quarterly by each pharmacy to the department. A
33 pharmacy shall calculate and report the provider fee due upon a form prepared by the
34 department and submit therewith payment of the provider fee no later than the thirtieth day

1 following the end of each calendar quarter. The initial provider fee report shall be filed and
2 the initial payment of the provider fee shall be submitted no later than July 30, 2004.

3 31-8-205.

4 (a) The department shall collect the provider fees imposed pursuant to Code Section
5 31-8-204. All revenues raised pursuant to this article shall be deposited into the segregated
6 account. Such funds shall be dedicated and used for the sole purpose of obtaining federal
7 financial participation for medical assistance payments to health care providers that
8 disproportionately serve the medically indigent.

9 (b) The department shall prepare and distribute a form upon which a pharmacy shall
10 calculate and report to the department the provider fee.

11 (c) Each pharmacy shall keep and preserve for a period of three years such books and
12 records as may be necessary to determine the amount for which it is liable under this
13 article. The department shall have the authority to inspect and copy the records of a
14 pharmacy for purposes of auditing the calculation of the provider fee. All information
15 obtained by the department pursuant to this article shall be confidential and shall not
16 constitute a public record.

17 (d) In the event that the department determines that a pharmacy has underpaid or overpaid
18 the provider fee, the department shall notify the pharmacy of the balance of the provider
19 fee or refund that is due. Such payment or refund shall be due within 30 days of the
20 department's notice.

21 (e) Any pharmacy that fails to pay the provider fee pursuant to this article within the time
22 required by this article shall pay, in addition to the outstanding provider fee, a 6 percent
23 penalty for each month or fraction thereof that the payment is overdue. If a provider fee
24 has not been received by the department by the last day of the month, the department shall
25 withhold an amount equal to the provider fee and penalty owed from any medical
26 assistance payment due such pharmacy under the Medicaid program. The provider fee
27 levied by this article shall constitute a debt due the state and may be collected by civil
28 action and the filing of tax liens in addition to such methods provided for in this article.
29 Any penalty that accrues pursuant to this subsection shall be credited to the segregated
30 account.

31 31-8-206.

32 (a) Notwithstanding any other provision of this chapter, the General Assembly is
33 authorized to appropriate as state funds to the department for use in any fiscal year all
34 revenues dedicated and deposited into the segregated account. Such appropriations shall
35 be made for the sole purpose of obtaining federal financial participation in the provision

1 of support to health care providers that disproportionately serve the medically indigent.
2 Any appropriation from the segregated account for any purpose other than medical
3 assistance payments to such health care providers shall be void.

4 (b) Revenues appropriated to the department pursuant to this Code section shall be used
5 to match federal funds that are available for the purpose for which such trust funds have
6 been appropriated.

7 (c) Appropriations from the segregated account to the department shall not lapse to the
8 general fund at the end of the fiscal year.

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10 31-8-207.

11 The department shall report annually to the General Assembly on its use of revenues
12 deposited into the segregated account and appropriated to the department pursuant to this
13 article.

14 31-8-208.

15 The fee provide for under this article shall cease to be assessed and collected upon any
16 reduction in the July 1, 2004, level of Medicaid reimbursement payments paid by the
17 department to pharmacies. In the event such reduction occurs, such fee shall terminate on
18 the last day of the calendar month in which such reduction becomes effective."

19 **SECTION 2.**

20 This Act shall become effective July 1, 2004.

21 **SECTION 3.**

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