

Senate Bill 73

By: Senators Shafer of the 48th, Hudgens of the 47th and Moody of the 56th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 20A of Title 33 of the Official Code of Georgia Annotated,  
2 relating to managed health care plans, so as to provide for continued access to care for all  
3 managed health care plan enrollees subsequent to the termination of physician and facility  
4 contracts; to provide definitions; to provide for related matters; to repeal conflicting laws;  
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 3 of Chapter 20A of Title 33 of the Official Code of Georgia Annotated, relating to  
9 managed health care plans, is amended by revising Code Section 33-20A-60, relating to  
10 definitions, as follows:

11 "33-20A-60.

12 As used in this article, the term:

13 (1) 'Agent' ~~as used in this article~~ shall not include an agent or agency as defined in Code  
14 Section 33-23-1.

15 (2) 'Carrier' means an accident and sickness insurer, fraternal benefit society, hospital  
16 service corporation, medical service corporation, health care corporation, health  
17 maintenance organization, provider sponsored health care corporation, or any similar  
18 entity and any self-insured health benefit plan not subject to the exclusive jurisdiction of  
19 the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001,  
20 et seq., which entity provides for the financing or delivery of health care services through  
21 a health benefit plan, or the plan administrator of any health benefit plan established  
22 pursuant to Article 1 of Chapter 18 of Title 45.

23 (3) 'Claimant' means any provider, facility, or individual making a claim under a health  
24 benefit plan on behalf of an enrollee.

25 (4) 'Commissioner' means the Commissioner of Insurance.

26 (5) 'Enrollee' has the same meaning as provided in Code Section 33-20A-3.

1 (6) 'Facility' means an institution providing health care services or a health care setting  
 2 including, but not limited to, hospitals and other licensed inpatient centers; ambulatory  
 3 surgical or treatment centers; skilled nursing centers; residential treatment centers;  
 4 diagnostic, laboratory, and imaging centers; and rehabilitation and other therapeutic  
 5 health settings.

6 ~~(6)~~(7) 'Health benefit plan' has the same meaning as provided in Code  
 7 Section 33-24-59.5.

8 ~~(7)~~(8) 'Physician or facility contract' means any contract between a physician or facility  
 9 and a carrier or a carrier's network, physician panel, intermediary, or representative  
 10 providing the terms under which the physician or facility agrees to provide health care  
 11 services to an enrollee pursuant to a health benefit plan.

12 ~~(8)~~(9) 'Postpayment audit' means an investigation by a health benefit plan, carrier,  
 13 insurer, or panel, or agent thereof, of whether a claim was properly paid to a claimant.

14 ~~(9)~~(10) 'Retroactive denial of a previously paid claim' or 'retroactive denial of payment'  
 15 means any attempt by a carrier retroactively to collect payments already made to a  
 16 claimant with respect to a claim, or any portion thereof, by requiring repayment of such  
 17 payments, by reducing other payments currently owed to the claimant, by withholding  
 18 or setting off against future payments, or in any other manner reducing or affecting the  
 19 future claim payments to the claimant."

## 20 SECTION 2.

21 Said article is further amended by revising Code Section 33-20A-61, relating to physician  
 22 contracts, as follows:

23 "33-20A-61.

24 (a) Every ~~physician~~ contract entered into, amended, extended, or renewed after July 1,  
 25 ~~2002~~ 2007, ~~by~~ between a physician or facility and a carrier shall contain a specific  
 26 provision which shall provide that, in the event that an insurance carrier, plan, network,  
 27 panel, or any agent thereof should terminate a physician's or a facility's contract and  
 28 thereby affect any enrollee's opportunity to continue receiving health care services from  
 29 that physician or facility under the plan, any such enrollee ~~who is suffering from and~~  
 30 ~~receiving active health care services for a chronic or terminal illness or who is an inpatient~~  
 31 shall have the right to continue to receive health care services from that physician or  
 32 facility for a period of up to 60 days from the date of the termination of the physician's or  
 33 facility's contract. Any enrollee who is pregnant and receiving treatment in connection  
 34 with that pregnancy at the time of the termination of that enrollee's physician's contract or  
 35 facility's contract shall have the right to continue receiving health care services from that  
 36 physician or facility throughout the remainder of that pregnancy, including six weeks'

1 postdelivery care. During such continuation of coverage period, the physician and the  
2 facility shall continue providing such services in accordance with the terms of the contract  
3 applicable at the time of the termination, and the carrier, plan, network, panel, and all  
4 agents thereof shall continue to meet all obligations of such physician's or facility's  
5 contract. The enrollee shall not have the right to the continuation provisions provided in  
6 this Code section if the physician's or facility's contract is terminated because of the  
7 suspension or revocation of the physician's or facility's license or if the carrier, plan,  
8 network, panel, or any agent thereof determines that the physician or facility poses a threat  
9 to the health, safety, or welfare of enrollees.

10 (b) Every physician or facility contract entered into, amended, extended, or renewed after  
11 July 1, ~~2002~~ 2007, by a carrier shall contain a specific provision which shall provide that,  
12 in the event that a physician or facility should terminate his or her or its contract with an  
13 insurance carrier, plan, network, panel, or any agent thereof and thereby affect any  
14 enrollee's opportunity to continue receiving health care services from that physician or  
15 facility under the plan, any such enrollee ~~who is suffering from and receiving active health~~  
16 ~~care services for a chronic or terminal illness or who is an inpatient~~ shall have the right to  
17 receive health care services from that physician or facility for a period of up to 60 days  
18 from the date of the termination of the physician's or facility's contract. Any enrollee who  
19 is pregnant and receiving health care services in connection with that pregnancy at the time  
20 of the termination of that enrollee's physician's contract or facility's contract shall have the  
21 right to continue receiving health care services from that physician or facility throughout  
22 the remainder of that pregnancy, including six weeks' postdelivery care. During such  
23 continuation of coverage period, the physician and facility shall continue providing such  
24 services in accordance with the terms of the contract applicable at the time of the  
25 termination, and the carrier, plan, network, panel, and all agents thereof shall continue to  
26 meet all obligations of such physician's or facility's contract. The enrollee shall not have  
27 the right to the continuation provisions provided in this Code section if the physician or  
28 facility terminates his or her or its contract because of the suspension or revocation of the  
29 physician's or facility's license or for reasons related to the quality of health care services  
30 rendered or issues related to the health, safety, or welfare of enrollees.

31 (c) Not later than 30 days prior to the initial contract termination, the carrier shall provide  
32 written notice to the affected enrollees of the specific termination date of the physician or  
33 facility contract. Such notice shall include an explanation of enrollees' continued access  
34 to care rights.

35 (d) Not later than 30 days prior to the initial contract termination, the carrier shall provide  
36 written notice to the Commissioner of the specific termination date of the physician or  
37 facility contract. The Commissioner may, at his or her discretion, extend the period of

1 continued access to care subsequent to a provider or facility contract termination provided  
2 in this Code section for up to two additional 60 day periods.

3 (e) Not later than ten business days prior to termination of the initial automatic 60 day  
4 extension period or a discretionary extension thereof granted by the Commissioner  
5 pursuant to subsection (d) of this Code section, the carrier shall provide written notice to  
6 the affected enrollees explaining their continued access to care rights and advising that:

7 (1) The physician or facility contract will terminate as of a specific date; or

8 (2) The Commissioner has granted an additional 60 day extension; or,

9 if the carrier and physician or facility have entered into a new contract, the carrier shall  
10 provide notice to affected enrollees within ten business days of the date of the new  
11 contract."

12 **SECTION 3.**

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