

House Bill 549

By: Representative Burkhalter of the 50<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public  
2 assistance, so as to establish requirements for basic therapy services for children with  
3 disabilities; to provide for legislative findings; to provide for definitions; to provide certain  
4 requirements relating to administrative prior approval for services and appeals; to provide  
5 for a modification to the state plan for medical assistance regarding the rate of payment to  
6 providers of medical assistance services; to provide for related matters; to provide for an  
7 effective date; to repeal conflicting laws; and for other purposes.

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

9 **SECTION 1.**

10 Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance,  
11 is amended by adding a new article to read as follows:

12 **"ARTICLE 7B**

13 49-4-166.

14 The General Assembly finds that changes in the approval process of certain health care  
15 programs have made it difficult for children with disabilities who are eligible for medical  
16 assistance pursuant to Article 7 of this chapter and Article 13 of Chapter 5 of this title to  
17 receive the services to which they are entitled with the frequency and within the time  
18 periods which are appropriate. Redundant paperwork requirements have hampered service  
19 approvals and delivery and reduced the number of providers serving children. It is the  
20 intent of this article to ensure that children with disabilities receive the medically necessary  
21 therapy services to which they are entitled under the Medicaid Early Periodic Screening,  
22 Diagnostic, and Treatment Program. It is also the intent of this article to simplify the  
23 process and paperwork by which occupational, speech, and physical therapy services are  
24 applied for and received by eligible recipients.

1 49-4-167.

2 As used in this article, the term:

3 (1) 'Basic therapy services' means occupational therapy, speech therapy, physical  
4 therapy, or other services provided in the frequency specified pursuant to the EPSDT  
5 Program to an eligible Medicaid or PeachCare for Kids beneficiary 21 years of age or  
6 younger and which are prescribed and designated as medically necessary by a physician  
7 or other health care provider working within the scope of his or her legal authority.

8 (2) 'Department' means the Department of Community Health.

9 (3) 'EPSDT Program' means the federal Medicaid Early Periodic Screening, Diagnostic,  
10 and Treatment Program contained at 42 U.S.C.S. Sections 1396a and 1396d.

11 (4) 'Medically necessary services' means services which are deemed necessary by a  
12 physician or other health care provider to correct or ameliorate defects and physical and  
13 mental illnesses and conditions.

14 (5) 'Prior approval' means the process by which medically necessary services provided  
15 at a frequency or interval above the minimum levels specified in Code Section 49-4-169  
16 for basic therapy services are authorized by the Department of Community Health.

17 49-4-168.

18 All persons who are 21 years of age or younger who are eligible for services under the  
19 EPSDT Program shall receive basic therapy services without prior approval in accordance  
20 with the provisions of this article.

21 49-4-169.

22 (a) The department shall develop a uniform form to be used by speech, occupational, and  
23 physical therapists and all payers or utilization review agents or other entities for  
24 low-income, aged, and blind and disabled programs administered by the department or by  
25 any of its vendors responsible for the EPSDT Program to document the beneficiary's  
26 patient care plan, the medical necessity for basic therapy services, and prior approval of  
27 medically necessary services in addition to basic therapy services, when required pursuant  
28 to this Code section. The form shall:

29 (1) Document that a patient care plan has been established and that basic therapy services  
30 have been ordered and are medically necessary services as solely determined and  
31 prescribed by the physician or other health care provider authorized to make such  
32 determination;

33 (2) Record the acknowledgement of the patient care plan and the order for services by  
34 the occupational, speech, physical, or other therapist who will deliver the services;

1 (3) Provide a place for a request for a brief explanation of the need for services beyond  
2 basic therapy services; and

3 (4) Be signed by a physician or other health care provider working within the scope of  
4 his or her legal authority.

5 The form shall not require documentation of other types of therapy services being provided  
6 to the eligible beneficiary under other programs, including, but not limited to, services  
7 provided by a local school system or those provided pursuant to an individualized family  
8 service plan, nor shall the provision of therapy services by a local school system or  
9 pursuant to an individualized family service plan be used as the basis for denial of basic  
10 therapy services or additional therapy services prescribed as provided in this Code section.

11 (b) The following procedures and criteria shall be used by the department or an entity  
12 performing services for the department for the processing of requests for prior approval:

13 (1) When required, prior approvals shall be approved or denied and notification of  
14 approval or denial shall be made to the provider requesting prior approval within ten  
15 working days;

16 (2) Prior approval for services beyond basic therapy services shall be for a minimum of  
17 six months;

18 (3) In addition to any other services which are properly authorized, the beneficiary shall  
19 be entitled to receive and make up any services missed or delayed pending an appeal of  
20 a denial of services during a successive period of up to three months after the date that  
21 an appeal is reversed; and

22 (4) The department shall respond to appeals of a denial of prior approval for services  
23 within 30 business days.

24 (c) Once designated as basic therapy services, such services shall be provided at a  
25 frequency of 20 units of service per month until such time as the beneficiary is no longer  
26 medically eligible for Medicaid or for such services. In the case of speech therapists, 20  
27 units per month shall mean ten units of untimed codes and 20 units of timed codes.

28 (d) Notwithstanding any other provision of law, the department shall grant prior approval  
29 for requests for services when the recipient is eligible for Medicaid services and the  
30 services requested are medically necessary services. Prescriptions and prior approval for  
31 services shall be for general areas of treatment or for treatment goals and not for specific  
32 treatments or processing codes for such treatments.

33 (e) Nothing in this Code section shall be deemed to prohibit or restrict the department from  
34 denying claims or prosecuting or pursuing beneficiaries or providers who submit false or  
35 fraudulent prescriptions, forms specified in this Code section, or claims for services or  
36 whose eligibility as a beneficiary or a participating provider has been based on intentionally  
37 false information.

1 49-4-169.1.

2 The provisions of this article shall apply to children eligible for services under the  
3 PeachCare for Kids Program created pursuant to Article 13 of Chapter 5 of this title and  
4 the Georgia Medical Assistance Act of 1977 created pursuant to Article 7 of this chapter."

5 **SECTION 2.**

6 Said chapter is further amended in Code Section 49-4-142, relating to the establishment of  
7 the Department of Community Health, by adding a new subsection to read as follows:

8 "(b.1) The department shall, not later than June 1, 2007, implement a modification of the  
9 state plan for medical assistance or any affected rules or regulations of the department,  
10 which modification shall provide that the rate of payment to providers shall be sufficient  
11 to enlist enough providers so that services are available to Medicaid or PeachCare for Kids  
12 beneficiaries under this title at least to the extent that services are available to the general  
13 public. The Department of Human Resources shall likewise modify any affected rules and  
14 regulations of the Department of Human Resources. The modification to the plan or to any  
15 affected rules and regulations shall be effective unless and until federal authorities rule that  
16 such modification is out of compliance with federal regulations."

17 **SECTION 3.**

18 This Act shall become effective upon its approval by the Governor or upon its becoming law  
19 without such approval.

20 **SECTION 4.**

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