

House Bill 549 (COMMITTEE SUBSTITUTE)

By: Representative Burkhalter of the 50th

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"ARTICLE 7B

49-4-166.

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

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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 in subsection (c) of Code
5 Section 49-4-169 and pursuant to the EPSDT Program to an eligible Medicaid or
6 PeachCare for Kids beneficiary 21 years of age or younger and which are prescribed and
7 designated as medically necessary by a physician or other health care provider working
8 within the scope of his or her legal authority.

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

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

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

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

18 49-4-168.

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

22 49-4-169.

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

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

- (2) Record the acknowledgement of the patient care plan and the order for services by the occupational, speech, physical, or other therapist who will deliver the services;
- (3) Provide a place for a request for services and a brief explanation of the need for such services beyond basic therapy services; and
- (4) Be signed by a physician or other health care provider working within the scope of his or her legal authority.

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

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

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

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

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

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

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

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

(e) Nothing in this article shall be deemed to prohibit or restrict the department from denying claims or prosecuting or pursuing beneficiaries or providers who submit false or fraudulent prescriptions, forms specified in this article, or claims for services or whose

1 eligibility as a beneficiary or a participating provider has been based on intentionally false
2 information.

3 49-4-169.1.

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

7 **SECTION 2.**

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

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

20 **SECTION 3.**

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

23 **SECTION 4.**

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