

Senate Bill 73

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

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"33-20A-60.

As used in this article, the term:

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

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

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

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

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

(6) 'Facility' means an institution providing health care services or a health care setting including, but not limited to, hospitals and other licensed inpatient centers; ambulatory surgical or treatment centers; skilled nursing centers; and residential treatment centers.

~~(6)(7)~~ 'Health benefit plan' has the same meaning as provided in Code Section 33-24-59.5 means any hospital or medical insurance policy or certificate, health care plan contract or certificate, qualified higher deductible health plan, health maintenance organization subscriber contract, any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45, any dental or vision care plan or policy, or managed care plan; but health benefit plan does not include any health benefit plan established pursuant to Article 7 of Chapter 4 of Title 49; policies issued in accordance with Chapter 31 of this title; disability income policies; or any plan under Chapter 9 of Title 34, relating to workers' compensation.

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

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

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

SECTION 2.

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

"33-20A-61.

(a) Every physician or facility contract entered into, amended, extended, or renewed after July 1, 2002 2007, by a carrier shall contain a specific provision which shall provide that, in the event that an insurance carrier, plan, network, panel, or any agent thereof the contract should terminate a physician's contract and thereby affect any enrollee's opportunity to continue receiving health care services from that physician or facility under the plan, any such enrollee who is suffering from and receiving active health care services for a chronic or terminal illness or who is an inpatient shall have the right to continue to receive health care services from that physician or facility for a period of up to 60 days from the date of

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

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

1 continued access to care rights. For purposes of identifying affected enrollees pursuant to
2 this subsection, a carrier shall consider at least one of the following:

3 (1) The number of visits to the physician or facility within the previous 12 months;

4 (2) Serial referrals for the same type of care from the physician or facility within the
5 previous 12 months; or

6 (3) Receipt of periodic preventive care by the same physician or facility within the
7 previous 12 months.

8 (c) Not later than 30 days prior to the effective termination date or, if the carrier does not
9 have 30 days, as soon as reasonably possible, the carrier shall provide written notice to the
10 Commissioner of the specific termination date of the physician or facility contract. The
11 Commissioner may, at his or her discretion, extend the period of continued access to care
12 subsequent to a provider or facility contract termination provided in this Code section for
13 up to an additional 60 day period.

14 (d) In the event that the carrier has given notice to the affected enrollees as required in
15 subsection (b) of this Code section and the contract between the carrier and the physician
16 or facility does not terminate, the carrier shall provide written notice on a timely basis to
17 the enrollees who received the original notice that the physician or facility contract remains
18 in effect."

19 **SECTION 3.**

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