

SENATE SUBSTITUTE TO HB 340

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so
2 as to provide certain eligibility requirements for Medicaid; to provide for consideration of
3 requiring copayments from Medicaid recipients; to revise eligibility requirements for the
4 PeachCare for Kids Program; to provide for basic dental coverage under PeachCare; to
5 provide for optional comprehensive dental and vision coverage; to provide for certain
6 copayments and premium amounts; to provide for a policy for increased utilization of generic
7 drugs by participants in the program; to establish the PeachCare Extended Program; to
8 provide for eligibility, payment, enrollment, and other criteria of the extended program; to
9 authorize the disclosure of certain tax information; to provide for civil and criminal penalties
10 for unauthorized disclosure of confidential tax information; to provide for related matters;
11 to provide for an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

13 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
14 by revising Code Section 49-4-142, relating to the state plan for medical assistance, as
15 follows:
16

17 "49-4-142.

18 (a) The Department of Community Health established under Chapter 5A of Title 31 is
19 authorized to adopt and administer a state plan for medical assistance in accordance with
20 Title XIX of the federal Social Security Act, as amended (Act of July 30, 1965, P.L. 89-97,
21 79 Stat. 343, as amended), provided such state plan is administered within the
22 appropriations made available to the department. The department is authorized to establish
23 the amount, duration, scope, and terms and conditions of eligibility for and receipt of such
24 medical assistance as it may elect to authorize pursuant to this article; provided, however,
25 that children from birth through 18 years of age in families with family incomes below 125
26 percent of the federal poverty level shall be eligible for the program. Further, the

1 department is authorized to establish such rules and regulations as may be necessary or
2 desirable in order to execute the state plan and to receive the maximum amount of federal
3 financial participation available in expenditures made pursuant to the state plan; provided,
4 however, that the department shall establish reasonable procedures for notice to interested
5 parties and an opportunity to be heard prior to the adoption, amendment, or repeal of any
6 such rule or regulation. The department is authorized to enter into such reciprocal and
7 cooperative arrangements with other states, persons, and institutions, public and private,
8 as it may deem necessary or desirable in order to execute the state plan.

9 (b) The department shall, not later than June 1, 1986, implement a modification of the state
10 plan for medical assistance or any affected rules or regulations of the department, which
11 modification will allow supplementation by relatives or other persons for a private room
12 or private sitter or both for a recipient of medical assistance in a nursing home. The
13 Department of Human Resources shall likewise modify any affected rules and regulations
14 of the Department of Human Resources. The modification to the plan or to any affected
15 rules and regulations shall be effective unless and until federal authorities rule that such
16 modification is out of compliance with federal regulations. Such modification of the state
17 plan for medical assistance or rules and regulations:

18 (1) Shall provide that a provider of nursing home services in either a skilled care facility
19 or an intermediate care facility shall be obligated to provide a recipient of medical
20 assistance only semiprivate accommodations which meet the other requirements of
21 appropriate regulations;

22 (2) Shall provide that at no time can more than 10 percent of a skilled care or
23 intermediate care facility's rooms be used for Medicaid recipients for whom a private
24 room supplementation has been made;

25 (3) Shall provide that payments made by relatives or other persons to a provider of
26 medical assistance for the specific stated purpose of paying the additional costs for a
27 private room or private sitter or both for a recipient of medical assistance in a skilled care
28 facility or intermediate care facility shall not be considered as income when determining
29 the amount of patient liability toward vendor payments; provided, however, that the
30 department's entitlement to payments made by legally liable third parties shall not be
31 diminished by this modification of the state plan;

32 (4) Shall provide that no provider of medical assistance shall discriminate against a
33 recipient of medical assistance who does not have a relative or other person who is
34 willing and able to provide supplementation; but the provision of a private room or
35 private sitter to a recipient when supplementation is provided shall not constitute
36 discrimination against other recipients;

1 (5) Shall provide that no recipient who is transferred to or admitted to a private room
 2 because of a shortage of beds in semiprivate rooms shall be discharged because the
 3 recipient does not have a relative or other person who is willing and able to provide
 4 supplementation; and

5 (6) May provide that the rate charged by the provider of medical assistance to the relative
 6 or other person providing supplementation for a private room for a recipient shall not
 7 exceed the difference between the maximum rate charged by the provider for a private
 8 room to or for a private pay patient and the amount which the provider receives or will
 9 receive from the department as reimbursement for otherwise providing for the recipient's
 10 care in a semiprivate room.

11 (c) The department is authorized to establish drug application fees which shall be equal
 12 to the department's cost of investigating and determining whether a new drug product
 13 should be included in the Controlled Medical Assistance Drug List. Such fees shall be
 14 adjusted annually and shall be paid by the drug manufacturers at the time of application.

15 (d) The department shall give all due consideration to requiring copayments from
 16 recipients of medical assistance under this article in accordance with provisions of Title
 17 XIX of the federal Social Security Act of 1935, as amended, and regulations promulgated
 18 pursuant thereto."

19 SECTION 2.

20 Said title is further amended by revising Code Section 49-5-273, relating to the creation of
 21 PeachCare for Kids Program, as follows:

22 "49-5-273.

23 (a) There is created the PeachCare for Kids Program to provide health care benefits for
 24 children in families with income ~~below 235~~ between 125 and 200 percent of the federal
 25 poverty level. Children from birth through 18 years of age in families with family incomes
 26 ~~below 235~~ between 125 and 200 percent of the federal poverty level and who are not
 27 eligible for medical assistance under Medicaid shall be eligible for the program, to be
 28 administered by the department pursuant to federal law and subject to availability of
 29 funding.

30 (b) No entitlement to benefits for the children covered under the program or this article
 31 shall be created by the program, nor shall this article or any rules or regulations adopted
 32 pursuant to this article be interpreted to entitle any person to receive any health services or
 33 insurance available under this program. The program shall be established subject to the
 34 availability of funds specifically appropriated by the General Assembly for this purpose
 35 and federal matching funds as set forth in federal law. The department shall operate the
 36 program consistent with administrative efficiency and the best interests of children.

1 (c)(1) The program shall offer substantially the same health care services available to
 2 children under Georgia's Medicaid plan, but coverage for such services shall not be
 3 provided by an expansion of eligibility for medical assistance under Medicaid. However,
 4 the program shall exclude nonemergency transportation and targeted case management
 5 services. The department shall utilize appropriate medical management and utilization
 6 control procedures necessary to manage care effectively and shall prospectively limit
 7 enrollment in the program and modify the health care services benefits when the
 8 department has reason to believe the cost of such enrollment or services may exceed the
 9 availability of funding.

10 (2) The program shall include vision and basic dental coverage, including examinations,
 11 x-rays, preventive care, and restorative care; provided, however, that comprehensive
 12 dental coverage shall be available to participants at a rate negotiated between the
 13 department and the care management organization providing health care services
 14 pursuant to this Code section, but not to exceed \$15.00 per participant per month. The
 15 comprehensive dental coverage shall be offered 60 days after the effective date of this
 16 Act.

17 (d) The department may require copayments for services consistent with federal law;
 18 provided, however, that no copayment shall be charged for preventive services and no
 19 copayments ~~or premiums~~ shall be charged for any child under six years of age. The
 20 department and the care management organization providing health care services pursuant
 21 to this Code section shall be authorized to charge a copayment of \$25.00 per visit for
 22 nonemergency room visits. Preventive services include but are not limited to medically
 23 necessary maintenance medication and monitoring for chronic conditions such as asthma
 24 and diabetes.

25 (e) The department shall require payment of premiums for participation in the program
 26 at a rate of 1.5 percent of a participant's family income. ~~The premiums shall not exceed~~
 27 ~~the amounts permitted under Section 1916(b)(1) of the Social Security Act or federal law.~~

28 (f) The department may provide for presumptive eligibility for all applicant children as
 29 allowed by federal law and in a manner consistent with the provisions of this article.

30 (g) The department shall provide for outreach for the purpose of enrolling children in the
 31 program. Applications shall be accepted by mail or in person. All necessary and
 32 appropriate steps shall be taken to achieve administrative cost efficiency, reduce
 33 administrative barriers to application for and receipt of services under the program, verify
 34 eligibility for the program and enforce eligibility standards, and ensure that enrollment in
 35 the program does not substitute for coverage under a group health insurance plan.

36 (h) Any health care provider who is enrolled in the Medicaid program shall be deemed to
 37 be enrolled in the program.

1 (i) The department shall file a Title XXI plan to carry out the program with the United
2 States Department of Health and Human Services Centers for Medicare and Medicaid
3 Services. The department shall have the authority and flexibility to make such decisions
4 as are necessary to secure approval of that plan consistent with this article. The department
5 shall provide a copy of the plan to the General Assembly. The department shall operate
6 this program consistent with federal law.

7 (j) The department shall publish an annual report, a copy of which shall be provided to the
8 Governor, setting forth the number of participants in the program, the health services
9 provided, the amount of money paid to providers, and other pertinent information with
10 respect to the administration of the program. The department shall not be required to
11 distribute copies of the annual report to the members of the General Assembly but shall
12 notify the members of the availability of the report in the manner which it deems to be most
13 effective and efficient.

14 (k) All state agencies shall cooperate with the department and its designated agents by
15 providing requested information to assist in the administration of the program.

16 (l) The department, through the Department of Administrative Services or any other
17 appropriate entity, may contract for any or all of the following: the collection of premiums,
18 processing of applications, verification of eligibility, outreach, data services, and
19 evaluation, if such contracting achieves administrative or service cost efficiency. The
20 department, and other state agencies as appropriate, shall provide necessary information
21 to any entity which has contracted with the department for services related to the
22 administration of the program upon request. For purposes of compliance with Code
23 Section 34-8-125, a request by any entity which has contracted with the department for
24 services related to the administration of the program shall be deemed to be a request by a
25 responsible official of the department and considered to be a request by the department.

26 (m) Nothing in this article shall be interpreted in a manner so as to preclude the department
27 from contracting with licensed health maintenance organizations (HMO) or provider
28 sponsored health care corporations (PSHCC) for coverage of program services and eligible
29 children; provided, however, that such contracts shall require payment of premiums and
30 copayments in a manner consistent with this article. The department may require
31 enrollment in a health maintenance organization (HMO) or provider sponsored health care
32 corporation (PSHCC) as a condition of receiving coverage under the program.

33 (n) The department shall develop a policy for increased utilization of generic drugs by
34 participants in the program and negotiate a reduced patient premium rate with the care
35 management organization providing health care services pursuant to this Code section
36 based on such policy. The requirements under this subsection shall be completed no later
37 than four months after the effective date of this Act.

1 ~~(n)~~(o) The Department of Education and local boards of education shall cooperate with
 2 and provide assistance to the department and its designated agents for the purposes of
 3 identifying and enrolling eligible children in the program.

4 (p) Children in families with income between 200 and 235 percent of the federal poverty
 5 level who were enrolled in the program on April 16, 2007, shall remain enrolled in the
 6 program so long as eligibility requirements continue to be met."

7 SECTION 3.

8 Said title is further amended by adding new Code sections to read as follows:

9 "49-5-274.

10 (a) There is created the PeachCare Extended Program to provide health care benefits for
 11 children in families with income between 200 and 250 percent of the federal poverty level.
 12 Children from birth through 18 years of age in families with family incomes between 200
 13 and 250 percent of the federal poverty level and who are not eligible for medical assistance
 14 under Medicaid shall be eligible for the extended program, to be administered by the
 15 department pursuant to federal law and subject to availability of funding.

16 (b) Eligible recipients may purchase coverage under the extended program from the care
 17 management organization managing the PeachCare for Kids Program. The cost of such
 18 coverage shall not exceed 5 percent of the recipient's family income.

19 (c) No entitlement to benefits for the children covered under the extended program shall
 20 be created by such program, nor shall this article or any rules or regulations adopted
 21 pursuant to this article be interpreted to entitle any person to receive any health services or
 22 insurance available under this extended program. No state or federal funds shall be used
 23 for the extended program. The department shall operate the extended program consistent
 24 with administrative efficiency and the best interests of children.

25 (d) The extended program shall offer substantially the same health care services available
 26 to children under Georgia's Medicaid plan and under the PeachCare for Kids Program, but
 27 coverage for such services shall not be provided by an expansion of eligibility for medical
 28 assistance under Medicaid.

29 (e) The department may require copayments for services consistent with federal law;
 30 provided, however, that no copayment shall be charged for preventive services and no
 31 copayments shall be charged for any child under six years of age. Preventive services
 32 include but are not limited to medically necessary maintenance medication and monitoring
 33 for chronic conditions such as asthma and diabetes.

34 (f) The department may provide for presumptive eligibility for all applicant children as
 35 allowed by federal law and in a manner consistent with the provisions of this article.

1 (g) The department shall provide for outreach for the purpose of enrolling children in the
2 extended program. Applications shall be accepted by mail or in person. All necessary and
3 appropriate steps shall be taken to achieve administrative cost efficiency, reduce
4 administrative barriers to application for and receipt of services under the extended
5 program, verify eligibility for the extended program and enforce eligibility standards, and
6 ensure that enrollment in the extended program does not substitute for coverage under a
7 group health insurance plan.

8 (h) Any health care provider who is enrolled in the Medicaid program shall be deemed to
9 be enrolled in the extended program.

10 (i) The department shall file a Title XXI plan to carry out the extended program with the
11 United States Department of Health and Human Services Centers for Medicare and
12 Medicaid Services. The department shall have the authority and flexibility to make such
13 decisions as are necessary to secure approval of that plan consistent with this article. The
14 department shall provide a copy of the plan to the General Assembly. The department shall
15 operate this extended program consistent with federal law.

16 (j) The department shall publish an annual report, a copy of which shall be provided to the
17 Governor, setting forth the number of participants in the extended program, the health
18 services provided, the amount of money paid to providers, and other pertinent information
19 with respect to the administration of the extended program. The department shall not be
20 required to distribute copies of the annual report to the members of the General Assembly
21 but shall notify the members of the availability of the report in the manner which it deems
22 to be most effective and efficient.

23 (k) All state agencies shall cooperate with the department and its designated agents by
24 providing requested information to assist in the administration of the extended program.

25 (l) The department, through the Department of Administrative Services or any other
26 appropriate entity, may contract for any or all of the following: the collection of premiums,
27 processing of applications, verification of eligibility, outreach, data services, and
28 evaluation, if such contracting achieves administrative or service cost efficiency. The
29 department, and other state agencies as appropriate, shall provide necessary information
30 to any entity which has contracted with the department for services related to the
31 administration of the extended program upon request. For purposes of compliance with
32 Code Section 34-8-125, a request by any entity which has contracted with the department
33 for services related to the administration of the extended program shall be deemed to be a
34 request by a responsible official of the department and considered to be a request by the
35 department.

36 (m) Nothing in this article shall be interpreted in a manner so as to preclude the department
37 from contracting with licensed health maintenance organizations (HMO) or provider

1 sponsored health care corporations (PSHCC) for coverage of program services and eligible
2 children; provided, however, that such contracts shall require payment of premiums and
3 copayments in a manner consistent with this article. The department may require
4 enrollment in a health maintenance organization (HMO) or provider sponsored health care
5 corporation (PSHCC) as a condition of receiving coverage under the extended program.

6 (n) The Department of Education and local boards of education shall cooperate with and
7 provide assistance to the department and its designated agents for the purposes of
8 identifying and enrolling eligible children in the extended program.

9 49-5-275.

10 (a) As used in this Code section, the term 'return information' means any information
11 secured by the state revenue commissioner incident to the administration of state income
12 tax.

13 (b) Notwithstanding any other provision of law, the state revenue commissioner shall be
14 permitted to disclose any return information to employees of the Department of
15 Community Health to the extent such information is reasonably needed to verify the
16 income of persons applying for PeachCare benefits under this title. Such information shall
17 retain its privileged and confidential nature in the hands of such employees to the same
18 extent and under the same conditions as that information is privileged and confidential in
19 the hands of the state revenue commissioner. Any such employee shall be subject to the
20 same civil and criminal penalties as those provided for divulgence of information by
21 employees of the Department of Revenue."

22 **SECTION 4.**

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

25 **SECTION 5.**

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