

House Bill 549 (AS PASSED HOUSE AND SENATE)

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 related matters; to provide for an effective date; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 "ARTICLE 7B

12 49-4-166.

13 The General Assembly finds that changes in the approval process of certain health care  
14 programs have made it difficult for children with disabilities who are eligible for medical  
15 assistance pursuant to Article 7 of this chapter and Article 13 of Chapter 5 of this title to  
16 receive the services to which they are entitled with the frequency and within the time  
17 periods which are appropriate. Redundant paperwork requirements have hampered service  
18 approvals and delivery and reduced the number of providers serving children. It is the  
19 intent of this article to ensure that children with disabilities receive the medically necessary  
20 therapy services to which they are entitled under the Medicaid Early Periodic Screening,  
21 Diagnostic, and Treatment Program. It is also the intent of this article to simplify the  
22 process and paperwork by which occupational, speech, and physical therapy services are  
23 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 in paragraph (2) of  
5 subsection (a) of Code Section 49-4-169 and pursuant to the EPSDT Program to an  
6 eligible Medicaid beneficiary 21 years of age or younger and which are recommended  
7 as medically necessary by a physician.

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.A. Sections 1396a and 1396d.

11 (4) 'Medically necessary services' means those services provided under the EPSDT  
12 Program such as screening services, vision services, dental services, hearing services, and  
13 such other necessary health care, diagnostic services, treatment and equipment, and other  
14 measures to treat defects and physical and mental illnesses and conditions discovered by  
15 such screening services. Such services shall be based upon generally accepted medical  
16 practices in light of conditions at the time of treatment which are:

17 (A) Appropriate and consistent with the diagnosis of the treating physician and the  
18 omission of which could adversely affect the recipient's medical condition or the  
19 provision of which would correct or ameliorate the beneficiary's medical condition;

20 (B) Compatible with the standards of acceptable medical practice in the United States;

21 (C) Provided in a safe, appropriate, and cost-effective setting, given the nature of the  
22 diagnosis and the severity of the symptoms;

23 (D) Not provided solely for the convenience of the recipient or the convenience of the  
24 health care provider or hospital;

25 (E) Not primarily custodial care unless custodial care is a covered service or benefit  
26 under the recipient's evidence of coverage; and

27 (F) Services for which there are no other effective and more conservative or  
28 substantially less costly treatments, services, and settings available.

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

32 49-4-168.

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

1 49-4-169.

2 (a) The department shall develop and implement for itself, the care management  
3 organizations with which it enters into contracts, and its utilization review vendors  
4 consistent requirements, paperwork, and procedures for utilization review of physical,  
5 occupational, or speech language pathologist services prescribed for children under the  
6 EPSDT Program. The following procedures and criteria shall be used by the department  
7 or an entity performing services for the department for the processing of requests for prior  
8 approval of such services:

9 (1) Prior approval for services beyond basic therapy services, when required under this  
10 article, shall be for a minimum of six months; provided, however, that to the extent  
11 allowable under federal law and regulations, the department, care management  
12 organizations with which it contracts, and its utilization review vendors shall grant prior  
13 approval for six months for treatment or services beyond basic therapy services for a  
14 minimum of six months for beneficiaries with congenital or chronic conditions and up  
15 to six months for beneficiaries with acute conditions; and

16 (2) Basic therapy services shall be permitted at a frequency of 16 units of service per  
17 month until such time as the beneficiary is no longer medically eligible for Medicaid or  
18 such services are no longer medically necessary. The prescribing physician shall  
19 reconfirm in writing the medical necessity of such services at least once every six  
20 months. In the case of speech therapists, 16 units per month shall mean eight units of  
21 untimed codes and 16 units of timed codes. The physician prescribing services shall only  
22 prescribe such services as are medically necessary, and nothing in this paragraph shall  
23 require such physician to order or prescribe basic therapy services at the 16 unit  
24 frequency specified in this paragraph.

25 (b) Notwithstanding any other provision of law, the department shall grant prior approval  
26 for requests for services in excess of basic therapy services when the recipient is eligible  
27 for Medicaid services and the services requested are medically necessary services.

28 (c) Prescriptions and prior approval for services shall be for general areas of treatment,  
29 treatment goals, or ranges of specific treatments or processing codes and shall not be  
30 restricted to specific treatments or processing codes for such treatments.

31 (d) Nothing in this article shall be construed to prohibit the department or its vendors and  
32 contractors from performing utilization reviews of the diagnosis of a child receiving  
33 speech, occupational, or physical therapy services pursuant to the EPSDT Program, the  
34 amount, duration, or scope, or the actual performance or delivery of such services by  
35 properly licensed therapists, so long as such utilization review does not unreasonably deny  
36 or unreasonably delay the provision of medically necessary services to the recipient.

1 (e) Nothing in this article shall be deemed to prohibit or restrict the department from  
2 denying claims or prosecuting or pursuing beneficiaries or providers who submit false or  
3 fraudulent prescriptions, forms specified in this article, or claims for services or whose  
4 eligibility as a beneficiary or a participating provider has been based on intentionally false  
5 information."

6 **SECTION 2.**

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

9 **SECTION 3.**

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