

Senate Bill 404

By: Senators Williams of the 19th, Goggans of the 7th, Hudgens of the 47th, Rogers of the 21st, Seabaugh of the 28th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 enact the "Georgia Health Marketplace Act"; to establish the Georgia Health Marketplace
3 to provide access to health care products for Georgia consumers; to provide for definitions;
4 to establish the Georgia Health Marketplace Authority; to provide for its membership and
5 powers; to provide for health care products and programs in the Georgia Health Marketplace;
6 to create a marketing trust fund; to provide for limited liability; to provide for consumer
7 complaints; to provide for catastrophic coverage products; to provide for rules and
8 regulations; to provide for related matters; to provide for an effective date; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
13 adding a new chapter to read as follows:

14 "CHAPTER 62

15 33-62-1.

16 This chapter shall be known and may be cited as the "Georgia Health Marketplace Act."

17 33-62-2.

18 For purposes of this chapter, the term:

19 (1) 'Authority' means the Georgia Health Marketplace Authority established pursuant to
20 Code Section 33-62-3.

21 (2) 'Board' means the board of directors of the Georgia Health Marketplace Authority.

22 (3) 'Commissioner' means the Commissioner of Insurance.

1 (4) 'Fund' means the GHM Marketing Trust Fund, as established in Code Section
2 33-62-6.

3 (5) 'GHM' means the Georgia Health Marketplace established pursuant to Code Section
4 33-62-5.

5 (6) 'Insurer' means any insurer or nonprofit organization authorized to sell accident and
6 sickness policies, subscriber contracts, certificates, or agreements of any form under
7 Chapters 15, 18, 19, 20, 21, 29, and 30 of this title.

8 33-62-3.

9 (a) There is established the Georgia Health Marketplace Authority as a body corporate and
10 politic, an instrumentality of the state, and a public corporation; and by that name the
11 authority may contract and be contracted with and bring and defend actions. The authority
12 shall have perpetual existence.

13 (b) The authority shall be governed by a board of directors composed of ten members as
14 follows:

15 (1) The executive director of the Georgia Technology Authority;

16 (2) The Commissioner of the Department of Community Health;

17 (3) The Commissioner of Insurance;

18 (4) A physician who is licensed under Chapter 34 of Title 43, appointed by the
19 Governor;

20 (5) A representative of a health insurance company licensed to offer health insurance
21 policies in this state, appointed by the Lieutenant Governor;

22 (6) A consumer representative, appointed by the Lieutenant Governor;

23 (7) A marketing expert, appointed by the Lieutenant Governor;

24 (8) An agent licensed to offer health insurance policies in this state, appointed by the
25 Speaker of the House of Representatives;

26 (9) A consumer representative, appointed by the Speaker of the House of
27 Representatives; and

28 (10) A hospital administrator, appointed by the Speaker of the House of Representatives.

29 The initial members of the board shall be appointed to terms of office beginning July 1,
30 2008. All members shall serve for terms of three years; provided, however, that for the
31 purpose of providing for staggered terms, of the Lieutenant Governor's and Speaker's
32 initial appointments, one each shall be appointed for a term of one year, two years, and
33 three years, respectively. Any vacancy on the board shall be filled in the same manner as
34 the original appointment, and any member appointed to fill a vacancy occurring because
35 of death, resignation, or ineligibility for membership shall serve only for the unexpired
36 term of the member's predecessor. A member shall be eligible for reappointment.

1 (c) The board shall at its initial meeting and the first meeting of each calendar year
 2 thereafter select from among its members a chairperson and a vice chairperson. Meetings
 3 shall be held at the call of the chairperson or whenever any two members so request.

4 (d) The members of the board who are not public officers shall be entitled to an expense
 5 allowance and reimbursement from funds of the authority for their actual travel expenses
 6 necessarily incurred in the performance of their duties and for each day actually spent in
 7 performance of their duties in the same manner as provided in Code Section 45-7-21.

8 (e) A majority of the members of the board shall constitute a quorum for the transaction
 9 of business of the authority. The vote of at least a majority of the members present at any
 10 meeting at which a quorum is present is necessary for any action to be taken by the board.
 11 No vacancy in the membership of the board shall impair the right of a quorum to exercise
 12 all rights and perform all duties of the board.

13 (f) No member or employer of a member shall be eligible to bid on, or enter into, any
 14 contract let by the authority or receive payment from the authority as an employee,
 15 contractor, consultant, or vendor; provided, however, that this subsection shall not be
 16 construed to prohibit a member of the authority or employee of such member from
 17 submitting health care products for inclusion on the GHM in accordance with established
 18 policies and procedures of the authority.

19 (g) The authority is assigned to the Department of Community Health for administrative
 20 purposes only, as prescribed in Code Section 50-4-3.

21 33-62-4.

22 The authority shall have the following powers:

23 (1) To hire officers, agents, and employees, including an executive director, as necessary
 24 to perform the duties and carry out the powers conferred by this chapter;

25 (2) To have a seal and alter the same at its pleasure;

26 (3) To make and execute contracts, lease agreements, and all other instruments necessary
 27 or convenient to exercise the powers of the authority or to further the public purpose for
 28 which the authority is created;

29 (4) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
 30 personal property of every kind and character, or any interest therein, in furtherance of
 31 the public purpose of the authority;

32 (5) To apply for and to accept any gifts or grants or loan guarantees or loans of funds or
 33 property or financial or other aid in any form from the federal government or any agency
 34 or instrumentality thereof, or from the state or any agency or instrumentality thereof, or
 35 from any other source for any or all of the purposes specified in this chapter and to
 36 comply, subject to the provisions of this chapter, with the terms and conditions thereof;

- 1 (6) To solicit, receive, and review proposals from technology vendors for the
2 development and implementation of technology to operate and maintain the GHM,
3 including an Internet website accessible to all Georgians;
- 4 (7) To identify health care products which fall under the categories set out in
5 paragraphs (2) through (6) of subsection (b) of Code Section 33-62-5 for inclusion in the
6 GHM;
- 7 (8) To suspend, at its sole discretion, products from inclusion in the GHM and
8 companies and entities from submitting products for inclusion based on evidence of
9 fraud, provided such suspension or any reinstatement shall occur only upon the written
10 request of the Commissioner or federal law enforcement authorities;
- 11 (9) To develop and approve specific measurement tools for consumers to use in
12 comparing health care products, including brief summaries of deductibles, copayment
13 requirements, covered providers, benefits, premiums, and coverage limits. To the
14 maximum extent possible, the authority shall utilize cost and quality measurements
15 established by the Georgia Health Information Technology and Transparency Advisory
16 Board;
- 17 (10) To develop a brief questionnaire of not more than ten questions to enable visitors
18 to the GHM website to obtain instant approximate price quotes consisting of either
19 specific prices or price ranges for products they may wish to purchase. Approximate
20 rates provided by insurers pursuant to such questionnaire shall be used only for
21 informational purposes and shall create no contractual obligation on the part of an insurer
22 to offer an individual a policy at such rate prior to completion of medical underwriting
23 by such insurer. Information provided by consumers through the GHM for purposes of
24 obtaining price quotes on products shall not be transferred outside the GHM or recorded
25 in written or electronic form by the GHM;
- 26 (11) To develop a common battery of medical underwriting questions that can be
27 uniformly utilized by health insurance companies to medically underwrite policies;
- 28 (12) To fix and collect fees and charges associated with the operation of the GHM,
29 including but not limited to listing charges for health insurance companies and licensed
30 insurance agents to register on the GHM; provided, however, that any fees and charges
31 collected shall be used only for purposes of promoting the GHM to Georgia consumers
32 and shall not be used for general administrative expenses associated with the GHM;
- 33 (13) To administer the GHM Marketing Trust Fund, as established in Code Section
34 33-62-6;
- 35 (14) To deposit or invest funds held by it in any state depository or in any investment
36 which is authorized for the investment of proceeds of state general obligation bonds and
37 to use for its corporate purposes or redeposit or reinvest interest earned on such funds;

1 (15) To exercise any power granted by the laws of this state to public or private
2 corporations which is not in conflict with the public purpose of the authority; and

3 (16) To do all things necessary or convenient to carry out the powers conferred by this
4 chapter.

5 33-62-5.

6 (a) The authority shall establish, operate, and maintain the Georgia Health Marketplace,
7 which shall serve as an Internet portal for access to health care products which fall under
8 the categories set out in paragraphs (2) through (6) of subsection (b) of this Code section
9 and to the PeachCare for Kids Program. The GHM shall also include specific measurement
10 tools for consumers to use in comparing health care products, including brief summaries
11 of deductibles, copayment requirements, covered providers, benefits, premiums, financial
12 soundness ratings, and coverage limits.

13 (b) The health care products and programs included in the GHM shall be in one of the
14 following categories:

15 (1) PeachCare for Kids Program created by Code Section 49-5-273;

16 (2) Initiatives or programs established by the Department of Community Health aimed
17 at providing accessible health insurance coverage to employees of small businesses in this
18 state, such as the Health Insurance Partnership;

19 (3) Traditional small group or individual health insurance products sold by licensed
20 Georgia insurers;

21 (4) Health care savings accounts, including any health care plan offering medical savings
22 accounts or health reimbursement arrangement accounts;

23 (5) Health care services provided directly from a physician which do not require a health
24 care provider to manage any risk, such as, but not limited to, a set number of office visits,
25 annual checkups, a set range of imaging services, immunizations, and services provided
26 on a regular schedule for chronic diseases. Prior to receiving health care services directly
27 from a physician pursuant to this paragraph, a consumer shall be required to sign an
28 acknowledgment and understanding of the following statement:

29 'I understand I am purchasing a prepaid package of medical services. This package of
30 services is not health insurance and provides only prepaid services at a discounted rate.
31 Purchasing this package without also purchasing catastrophic coverage insurance may
32 leave me without coverage for many major medical problems.'

33 These services shall not be treated as insurance products under Georgia law. The
34 Composite State Board of Medical Examiners shall be responsible for disciplining any
35 physician for unprofessional conduct in offering or providing such services; and

36 (6) Catastrophic coverage products only as authorized pursuant to Code Section 33-62-8.

1 (c) The GHM shall provide consumers who identify health care products on the GHM the
2 option of contacting a health insurance company or a licensed insurance agent by telephone
3 or direct electronic referral to the agent or company website when he or she is ready to
4 purchase a product. For consumers choosing the licensed insurance agent option, licensed
5 agents selling the selected plan shall be listed in the order directed by the authority, with
6 that order being determined by professional qualifications of the agent and the agent's
7 geographical proximity to the address given by the consumer; provided, however, that the
8 authority may take into consideration a licensed insurance agent's history of consumer
9 complaints against such agent in the listed order. The authority shall include on the GHM
10 a description of the important role of licensed agents in educating consumers on health
11 insurance products.

12 (d) The provisions of Chapter 21 of this title shall not be deemed to prohibit licensees
13 thereunder from selling the policies provided for in this Code section.

14 (e) The purchase of an accident and sickness policy or contract under this Code section
15 shall not preclude the purchaser from purchasing additional limited benefit insurance
16 policies or contracts.

17 33-62-6.

18 (a) There is created the GHM Marketing Trust Fund as a separate fund in the state
19 treasury. The trust fund shall be administered by the authority.

20 (b) The trust fund shall consist of such moneys as appropriated by the General Assembly,
21 fees and charges determined and collected by the authority for the operation of the Georgia
22 Health Marketplace, which shall be limited to initial listing charges for health insurance
23 companies and licensed insurance agents to register on the GHM, and private contributions
24 from any source.

25 (c) State funds received by the authority through appropriations by the General Assembly
26 shall not be expended by the authority unless the authority collects or receives matching
27 private funds at a ratio of 1:1 to the state funds through fees, charges, or contributions from
28 health insurance companies, licensed insurance agents, or other private sources. State
29 funds not matched within two years shall be returned from the trust fund to the general
30 fund.

31 (d) Funds from the trust fund shall be expended only for the purpose of entering into
32 competitively bid contracts for private sector marketing, advertising, and public relations
33 to promote the GHM to Georgia consumers. Funds shall not be expended for general
34 administrative expenses associated with the GHM.

1 33-62-7.

2 (a) The authority shall not be liable for any acts or omissions of an insurer related to its
3 participation in the GHM.

4 (b) Consumer complaints relating to health care products and programs purchased or
5 enrolled in through the GHM shall be handled in the same manner as would be applicable
6 if the consumer purchased or enrolled in the health care product or program through other
7 means.

8 33-62-8.

9 (a) Notwithstanding any other provision of law and on and after the effective date of this
10 Code section, catastrophic coverage products may be offered by an insurer for purposes of
11 this chapter only. Such products shall:

12 (1) Have deductibles in at least a minimum amount as established by the authority;
13 provided, however, that an insurer may set a higher deductible. Such minimum amount
14 shall be equal to the amount established by the United States Department of Treasury as
15 the minimum deductible for high deductible health plans, as it exists on the effective date
16 of this Code section. The authority shall establish and maintain rules governing the
17 adjustments of this figure for purposes of inflation which may be based on the method
18 of adjustment for high deductible health plans established by the United States
19 Department of Treasury or on the Consumer Price Index;

20 (2) Provide coverage for services or treatment based solely upon a contractual agreement
21 between the insurer and the consumer;

22 (3) Be offered only through the GHM; and

23 (4) Be available for purchase only by individuals:

24 (A) Between the ages of 18 and 25; or

25 (B) Who certify in writing that they will open, within 60 days of purchase of the
26 catastrophic coverage product, and maintain an active health care savings account
27 capitalized to an amount equal to or greater than the annual deductible of the
28 catastrophic coverage product the individual intends to purchase through the GHM.

29 Products offered pursuant to this Code section shall not be subject to other Title 33
30 provisions including but not limited to provisions which require specific state mandated
31 health benefits, which regulate premiums, or which regulate the issuance or cancellation
32 of policies.

33 (b) Prior to purchasing a catastrophic coverage product pursuant to this chapter, a
34 consumer shall be required to sign an acknowledgment and understanding of the following
35 statement:

1 I understand that the catastrophic coverage product I am purchasing or enrolling in is not
2 subject to any of the coverage requirements that state law mandates of standard health
3 insurance plans. I understand that in exchange for paying a lower premium, I may be
4 responsible for higher out of pocket expenses if I get sick or am in an accident.'

5 (c) An insurer that offers one or more catastrophic coverage products through the GHM
6 shall also make available for purchase on the GHM at least one individual accident and
7 sickness insurance policy that contains all state mandated health benefits.

8 (d) The Commissioner may promulgate rules and regulations as necessary to implement
9 the provisions of this Code section.

10 33-62-9.

11 The authority and the Commissioner, as appropriate, shall be authorized to adopt rules and
12 regulations to effect the implementation of this chapter."

13 **SECTION 2.**

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

16 **SECTION 3.**

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