

Senate Bill 507

By: Senators Moody of the 56th, Carter of the 13th, Johnson of the 1st, Brown of the 26th,
Butler of the 55th and others

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 detected under screening activities required by federal law; to provide for
4 legislative findings; to provide for definitions; to assure similar treatments and services for
5 categorically needy and medically fragile children; to provide certain requirements relating
6 to administrative prior approval for services and appeals; to provide for related matters; to
7 provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

12 "ARTICLE 7C

13 49-4-169.

14 The General Assembly finds that changes in the approval process of certain health care
15 programs have made it difficult for children with disabilities who are eligible for medical
16 assistance pursuant to Article 7 of this chapter to receive the services to which they are
17 entitled with the frequency and within the time periods which are appropriate. Separate
18 administration of the categorically needy and the medically fragile programs should not
19 result in any variation in the amount, duration, and scope of services. Redundant
20 paperwork requirements have hampered service approvals and delivery and reduced the
21 number of providers serving children. It is the intent of this article to ensure that children
22 with disabilities receive the medically necessary therapy services to which they are entitled
23 under the Medicaid Early Periodic Screening, Diagnostic, and Treatment Program and that
24 categorically needy and medically fragile children have available to them the same scope,

1 duration, and amount of services. It is also the intent of this article to simplify the process
2 and paperwork by which occupational, speech, and physical therapy services are applied
3 for and received by eligible recipients.

4 49-4-169.1.

5 As used in this article, the term:

6 (1) 'Basic therapy services' means occupational therapy, speech therapy, physical
7 therapy, or other services provided in the frequency specified in paragraph (2) of
8 subsection (a) of Code Section 49-4-169.3, without prior approval, pursuant to the
9 EPSDT Program to an eligible Medicaid beneficiary 21 years of age or younger and
10 which are recommended as medically necessary by a physician.

11 (2) 'Correct or ameliorate' means to improve or maintain a child's health in the best
12 condition possible, compensate for a health problem, prevent it from worsening, prevent
13 the development of additional health problems, or improve or maintain a child's overall
14 health, even if treatment or services will not cure the recipient's overall health.

15 (3) 'Department' means the Department of Community Health.

16 (4) 'EPSDT Program' means the federal Medicaid Early Periodic Screening, Diagnostic,
17 and Treatment Program contained at 42 U.S.C.A. Sections 1396a and 1396d.

18 (5) 'Medically necessary services' means services which are deemed necessary and
19 ordered by a physician pursuant to the EPSDT Program to diagnose or to correct or
20 ameliorate defects, physical and mental illnesses, and health conditions, whether or not
21 such services are covered under the state plan.

22 (6) 'Prior approval' means the process by which medically necessary services provided
23 at a frequency or interval above the minimum levels specified in Code Section 49-4-169.3
24 for basic therapy services are authorized by the Department of Community Health, its
25 utilization review vendors, or its care management organizations.

26 49-4-169.2.

27 All persons who are 21 years of age or younger who are eligible for services under the
28 EPSDT Program shall receive basic therapy services without prior approval in accordance
29 with the provisions of this article, whether they are categorically needy children enrolled
30 in the low income Medicaid program or medically fragile children enrolled in the aged,
31 blind, and disabled Medicaid program.

1 49-4-169.3.

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 and prior
5 approval of physical occupational, or speech language pathologist services prescribed for
6 children. The following procedures and criteria shall be used by the department, its
7 utilization review vendors, and its care management organizations for the processing of
8 requests for prior approval of such services:

9 (1) Prior approval for services beyond basic therapy services, when permitted under this
10 article, shall be for a minimum of six months; provided, however, that to the extent
11 permitted under federal law and regulations, the department, care management
12 organizations with which it contracts, and its utilization review vendors shall grant such
13 prior approval for six months for beneficiaries with congenital or chronic conditions and
14 up to six months, as determined by a beneficiary's medical condition and needs, for a
15 beneficiary with acute conditions. In no event shall this distinction as to chronic,
16 congenital, or acute conditions result in variations as to scope, duration, or amount of
17 services available to all Medicaid eligible children either within or across children
18 categorically eligible for Medicaid or who are medically fragile; and

19 (2) Basic therapy services, if ordered by a physician, shall be permitted by the
20 department, the care management organizations with which it contracts, and its utilization
21 review vendors without prior approval at a frequency of 16 units of service per month
22 until such time as the beneficiary is no longer eligible for Medicaid or such services are
23 no longer medically necessary. The prescribing physician shall reconfirm in writing the
24 medical necessity of such services at least once every six months. In the case of speech
25 therapists, 16 units per month shall mean eight units of untimed codes and 16 units of
26 timed codes. The physician prescribing services shall only prescribe such services as are
27 medically necessary, and nothing in this paragraph shall require such physician to order
28 or prescribe basic therapy services at the 16 unit frequency specified in this paragraph.

29 (b) The department, its utilization review vendors, or the care management organizations
30 with which it contracts shall give notice to affected Medicaid recipients of the following
31 information in cases where prior approval is denied:

32 (1) The medical procedure or service for which such entity is refusing to grant prior
33 approval;

34 (2) Any additional information needed from the recipient's medical provider which could
35 change the decision of such entity; and

1 (3) The specific reason used by the entity to determine that the procedure is not
2 medically necessary to the Medicaid recipient, including facts pertinent to the individual
3 case.

4 (c) Notwithstanding any other provision of law, the department, its utilization review
5 vendors, or its care management organizations shall grant prior approval for requests for
6 services in excess of basic therapy services when the recipient is eligible for Medicaid
7 services and the services prescribed are medically necessary.

8 (d) In cases where prior approval is required under this article, it shall be decided with
9 reasonable promptness, not to exceed 15 business days, and may not be denied until it has
10 been evaluated under the EPSDT Program.

11 (e) Prescriptions and prior approval for services shall be for general areas of treatment,
12 treatment goals, or ranges of specific treatments or processing codes and shall not be
13 restricted to specific treatments or processing codes for such treatments. Clinical coverage
14 criteria or guidelines, including restrictions such as location of service and prohibitions on
15 multiple services on the same day or at the same time, may not be used by the department,
16 its utilization vendors, or its care management organizations to limit the EPSDT standards
17 or its medically necessary definition in this article. Any such restrictions shall be waived
18 under the EPSDT Program or this article if the prescribed services are medically necessary.

19 (f) Nothing in this article shall be construed to prohibit the department, its utilization
20 review vendors, or its care management organizations from performing utilization reviews
21 of the diagnosis or treatment of a child receiving speech, occupational, or physical therapy
22 services pursuant to the EPSDT Program, the amount, duration, or scope or the actual
23 performance or delivery of such services by providers, so long as such utilization review
24 does not unreasonably deny or unreasonably delay the provision of medically necessary
25 services to the recipient.

26 (g) Nothing in this article shall be deemed to prohibit or restrict the department, its
27 utilization review vendors, or its care management organizations from denying claims or
28 prosecuting or pursuing beneficiaries or providers who submit false or fraudulent
29 prescriptions, forms required to implement this article, or claims for services or whose
30 eligibility as a beneficiary or a participating provider has been based on intentionally false
31 information."

32 SECTION 2.

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

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SECTION 3.

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