

House Bill 1351

By: Representative Knox of the 24th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 29A of Title 33 of the Official Code of Georgia Annotated, relating to
2 individual health insurance coverage, so as to provide for changes to definitions; to change
3 participation requirements in the health insurance assignment system; to change participation
4 requirements in the health benefits assignment system; to provide for the Commissioner to
5 file new plans; to provide for the Commissioner to conduct an audit of product offerings in
6 the individual health insurance market; to provide for exclusion of coverage period for
7 preexisting conditions; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 29A of Title 33 of the Official Code of Georgia Annotated, relating to individual
12 health insurance coverage, is amended by revising Article 1, relating to availability and the
13 assignment system, as follows:

14 "ARTICLE 1

15 33-29A-1.

16 (a) It is the intention of this chapter together with Code Section 33-24-21.1 to provide an
17 acceptable alternative mechanism for the availability of individual health insurance
18 coverage, as contemplated by Section 2741 of the federal Public Health Service Act, 42
19 U.S.C.A. Section 300gg-41. This chapter shall be construed and administered so as
20 accomplish such intention.

21 (b) Any reference in this chapter to any federal statute shall refer to that federal statute as
22 it existed on January 1, 1997, including its amendment by the federal Health Insurance
23 Portability and Accountability Act of 1996, P.L. 104-191.

1 33-29A-2.

2 (a) As used in this chapter, the terms:

3 (1) 'Creditable coverage' and 'eligible individual' have the same meaning as specified in
4 Sections 2701 and 2741 of the federal Public Health Service Act, 42 U.S.C.A. Sections
5 300gg and 300gg-41 except that a person shall not be an eligible individual under this
6 chapter if such person is eligible for or has declined any continuation or conversion
7 coverage or has terminated any such coverage prior to its exhaustion in the last six
8 months, but such person shall be deemed eligible if he or she has been declined twice
9 attempting to obtain individual health insurance in the same period of time.

10 (2) 'Health insurance issuer' and 'health maintenance organization' have the same
11 meaning as specified in Section 2791 of the federal Public Health Service Act, 42
12 U.S.C.A. Section 300gg-92.

13 (3) 'Health insurer' means any health insurance issuer which is not a managed care
14 organization.

15 (4) 'Managed care organization' means a health maintenance organization or a nonprofit
16 health care corporation.

17 (b) Any other term which is used in this chapter and which is also defined in Section 2791
18 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-92, and not otherwise
19 defined in this chapter shall have the same meaning specified in said Section 2791.

20 33-29A-3.

21 Each health insurer and managed care corporation which is licensed to and does offer
22 health insurance coverage ~~in the individual market~~ in this state shall as a condition of such
23 licensure agree to participation in its respective assignment system provided by this
24 chapter. This Code section shall not apply to an entity which offers only excepted benefits
25 as specified in Section 2791(c) of the federal Public Health Service Act, 42 U.S.C.A.
26 Section 300gg-91(c).

27 33-29A-4.

28 (a) Each eligible individual in this state whose most recent creditable coverage was
29 provided by an entity other than a managed care organization shall be entitled to participate
30 in the Georgia Health Insurance Assignment System (sometimes referred to as GHIAS in
31 this chapter) created pursuant to this Code section. Each eligible individual in this state
32 whose most recent creditable coverage was provided by a managed care organization shall
33 be entitled to participate in the Georgia Health Benefits Assignment System created
34 pursuant to Code Section 33-29A-5. Each eligible individual in this state who has been
35 uninsured for a period of 12 months or more shall be entitled to elect to participate in the

1 Georgia Health Insurance Assignment System or in the Georgia Health Benefits
 2 Assignment System.

3 (b) The Commissioner shall develop the GHIAS system which shall provide for the
 4 equitable assignment of eligible individuals who are entitled to and desirous of
 5 participating in the system to health insurers offering coverage in the individual market in
 6 the state. Such assignment shall be based primarily on the pro rata volume of ~~individual~~
 7 health insurance business done in this state by each such health insurer. The system may
 8 include other factors for equitable assignment, as determined to be appropriate by the
 9 Commissioner, including but not limited to the geographic area or areas in the state
 10 normally served by a health insurer.

11 (c) Upon assignment of an eligible individual to a health insurer, the eligible individual
 12 shall have the right to purchase and the health insurer shall have the obligation to sell ~~either~~
 13 ~~of the standard health insurance policies~~ policy provided for in subsection (d) of this Code
 14 section at a premium not to exceed the maximum specified in said subsection or as
 15 provided for in Code Section 33-29A-8.

16 (d) The Commissioner shall develop ~~two~~ at least one standard health insurance ~~policies~~
 17 policy to be provided by health insurers to which eligible individuals are assigned pursuant
 18 to this Code section. The actuarial value of the benefits under ~~each~~ such coverage shall be
 19 at least 85 percent of the average actuarial value of the benefits provided by all individual
 20 health insurance coverage issued by all issuers in the state. Except to the extent specifically
 21 provided to the contrary in this chapter, all laws of this state relating to the normal
 22 provision of such coverage in the individual market shall apply to the provision of such
 23 coverage under this chapter. The Commissioner shall fix a maximum premium to be
 24 charged for ~~each~~ such standard policy which shall be not more than 150 percent of the
 25 average premium which is or would be charged by all issuers in the state for the same or
 26 similar coverage issued other than under this Code section, as determined by the
 27 Commissioner. The Commissioner may authorize a health insurer to charge a premium in
 28 excess of said 150 percent maximum if and only if the insurer demonstrates to the
 29 Commissioner that the application of the 150 percent maximum would endanger the
 30 financial solvency of that health insurer.

31 (e) Nothing in this Code section shall be construed to require a health insurer to offer to
 32 an eligible individual any coverage other than ~~one of the two~~ standard health insurance
 33 ~~plans~~ plan developed under subsection (d) of this Code section, except to the extent
 34 required under federal law to offer at least two choices of coverage to an eligible
 35 individual. Nothing in this Code section shall be construed to prohibit any insurer from
 36 offering to any individual any otherwise lawful coverage.

1 33-29A-5.

2 (a) Each eligible individual in this state whose most recent creditable coverage was
 3 provided by a managed care organization shall be entitled to participate in the Georgia
 4 Health Benefits Assignment System (sometimes referred to as GHBAS in this chapter)
 5 created pursuant to this Code section. Each eligible individual in this state whose most
 6 recent creditable coverage was provided by an entity other than a managed care
 7 organization shall be entitled to participate in the Georgia Health Insurance Assignment
 8 System created pursuant to Code Section 33-29A-4. Each eligible individual in this state
 9 who has been uninsured for a period of 12 months or more shall be entitled to elect to
 10 participate in the Georgia Health Insurance Assignment System or in the Georgia Health
 11 Benefits Assignment System.

12 (b) The Commissioner shall develop the GHBAS system which shall provide for the
 13 equitable assignment of eligible individuals who are entitled to and desirous of
 14 participating in the system to managed care organizations doing business in the state. Such
 15 assignment shall be based primarily on the pro rata volume of ~~individual~~ business done in
 16 this state by each such managed care organization and the geographic area or areas in the
 17 state normally served by a managed care organization. The system may include other
 18 factors for equitable assignment, as determined to be appropriate by the Commissioner. No
 19 managed care organization shall be required to provide coverage outside the geographic
 20 area or areas normally served by that managed care organization. However, where this
 21 geographic limitation makes it impossible to assign to a managed care organization its
 22 equitable share of eligible individuals, a managed care organization may be required by the
 23 Commissioner to contract for provision of coverage of eligible individuals, as provided for
 24 in Code Section 33-29A-6.

25 (c) Upon assignment of an eligible individual to a managed care organization, the eligible
 26 individual shall have the right to purchase and the managed care organization shall have
 27 the obligation to sell enrollment in ~~either of the standard health benefit plans~~ plan provided
 28 for in subsection (d) of this Code section at a premium not to exceed the maximum
 29 specified in said subsection or as provided for in Code Section 33-29A-8.

30 (d) The Commissioner shall develop ~~two~~ at least one standard health benefit ~~plans~~ plan to
 31 be provided by managed care organizations to which eligible individuals are assigned
 32 pursuant to this Code section. The actuarial value of the benefits under ~~each~~ such health
 33 benefit plan shall be at least 85 percent of the average actuarial value of the benefits
 34 provided by all health benefit plans issued in the individual market by all managed care
 35 organizations in the state. Except to the extent specifically provided to the contrary in this
 36 chapter, all laws of this state relating to the normal provision of such coverage in the
 37 individual market shall apply to the provision of such coverage under this chapter. The

1 Commissioner shall fix a maximum premium to be charged for ~~each~~ such standard health
 2 benefit plan which shall be not more than 150 percent of the average premium which is or
 3 would be charged by all managed care organizations in the state for the same or similar
 4 coverage issued other than under this Code section, as determined by the Commissioner.
 5 The Commissioner may authorize a managed care organization to charge a premium in
 6 excess of said 150 percent maximum if and only if the managed care organization
 7 demonstrates to the Commissioner that the application of the 150 percent maximum would
 8 endanger the financial solvency of that managed care organization.

9 (e) Nothing in this Code section shall be construed to require a managed care organization
 10 to offer to an eligible individual any coverage other than ~~one of the two~~ standard health
 11 benefit plans plan developed under subsection (d) of this Code section, except to the extent
 12 required under federal law to offer at least two choices of coverage to an eligible
 13 individual. Nothing in this Code section shall be construed to prohibit any managed care
 14 organization from offering to any individual any otherwise lawful coverage.

15 33-29A-6.

16 Any combination of one or more health insurers and one or more managed care
 17 organizations may contract with each other for the assumption by one or more health
 18 insurers of the obligations otherwise imposed by this chapter on one or more managed care
 19 organizations. Under any such contract the responsibility for providing the coverage
 20 required by this chapter shall be with a health insurer licensed to do business in this state.
 21 Where the obligations of a managed care organization are contractually assumed by a
 22 health insurer, the assuming health insurer may substitute coverage under a standard policy
 23 of health insurance for coverage under a standard health benefit plan, and provision of such
 24 substituted coverage shall satisfy the obligation otherwise owed to an affected eligible
 25 individual.

26 33-29A-7.

27 The Commissioner may impose a moratorium upon the required issuance of coverage by
 28 a health insurer or managed care organization, if the Commissioner determines after public
 29 notice and hearing that the continuation of such required issuance by that entity will
 30 endanger the solvency of that entity.

31 33-29A-8.

32 (a) The Commissioner shall adopt rules and regulations for the implementation of this
 33 chapter. Notwithstanding any provision of Chapter 2 of this title or any other law to the
 34 contrary, such rules and regulations shall be adopted in exact compliance with the

1 procedures specified in Article 1 of Chapter 13 of Title 50, the 'Georgia Administrative
 2 Procedure Act.' In addition to any other materials submitted under subsection (e) of Code
 3 Section 50-13-4, there shall be so submitted the full text of the Georgia Health Insurance
 4 Assignment System, the Georgia Health Benefits Assignment System, the standard health
 5 insurance ~~policies~~ policy provided for in Code Section 33-29A-4, and the standard health
 6 benefit ~~plans~~ plan provided for in Code Section 33-29A-5. The Commissioner shall file
 7 new plan designs allowed for assignment coverage pursuant to subsection (c) of this Code
 8 section no later than January 15, 2009.

9 (b) The rules and regulations developed by the Commissioner shall include provisions for
 10 applications for GHIAS and GHBAS to be submitted by licensed insurance agents and for
 11 such agents to be compensated at a commission rate of not less than 3 percent from the
 12 premiums received by the issuing health insurer or managed care organization. For
 13 purposes of applications for GHIAS and GHBAS, licensed agents shall not be subject to
 14 the certificate of authority requirements of Code Section 33-23-26.

15 (c) The Commissioner shall, by December 31, 2008, conduct an audit of product offerings
 16 in the individual health insurance market in order to provide that assignment coverage
 17 issued pursuant to this chapter reflects those otherwise available to consumers outside this
 18 chapter, including, but not limited to, wellness incentives, consumer directed health plans,
 19 disease management programs, and other risk reduction methodologies available through
 20 private market insurers in this state. Such plans may be offered by insurers and managed
 21 care organizations required to accept assignments under this chapter in lieu of the standard
 22 plans provided in subsection (d) of Code Sections 33-29A-4 and 33-29A-5 as long as such
 23 plans meet requirements provided under the guidelines of the federal Health Insurance
 24 Portability and Accountability Act of 1996, P.L. 104-191, and as long as they are approved
 25 for such use by the Commissioner and are offered at rates not exceeding the limits
 26 established for the standard plans.

27 (d) Individuals deemed eligible as a result of being declined for coverage in the individual
 28 health insurance market as provided in subsection (a) of Code Section 33-29A-4 shall be
 29 subject to a 12 month exclusion of coverage for preexisting conditions that have been
 30 treated in the most recent 12 months prior to seeking coverage in the assignment system
 31 if such individuals do not have 18 months of continuous prior creditable coverage with no
 32 gap in coverage over 120 days."

33 SECTION 2.

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