

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

**AS PASSED SENATE**

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.

23 (4) 'Fund' means the GHM Marketing Trust Fund, as established in Code Section

1 33-62-6.

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

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

7 33-62-3.

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

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

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

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

16 (3) The Commissioner of Insurance;

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

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

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

22 (7) A health care marketing expert, appointed by the Lieutenant Governor;

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

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

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

28 The initial members of the board shall be appointed to terms of office beginning July 1,  
29 2008. All members shall serve for terms of three years; provided, however, that for the  
30 purpose of providing for staggered terms, of the Lieutenant Governor's and Speaker's  
31 initial appointments, one each shall be appointed for a term of one year, two years, and  
32 three years, respectively. Any vacancy on the board shall be filled in the same manner as  
33 the original appointment, and any member appointed to fill a vacancy occurring because  
34 of death, resignation, or ineligibility for membership shall serve only for the unexpired  
35 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, provided that the authority shall not have the power to directly issue insurance  
7 policies;
- 8 (8) To suspend, at its sole discretion, products from inclusion in the GHM and  
9 companies and entities from submitting products for inclusion based on evidence of  
10 fraud, provided such suspension or any reinstatement shall occur only upon the written  
11 request of the Commissioner or federal law enforcement authorities;
- 12 (9) To develop and approve specific measurement tools for consumers to use in  
13 comparing health care products, including brief summaries of deductibles, copayment  
14 requirements, covered providers, benefits, premiums, and coverage limits. To the  
15 maximum extent possible, the authority shall utilize cost and quality measurements  
16 established by the Georgia Health Information Technology and Transparency Advisory  
17 Board;
- 18 (10) To develop a brief questionnaire of not more than ten questions to enable visitors  
19 to the GHM website to obtain instant approximate price quotes consisting of either  
20 specific prices or price ranges for products they may wish to purchase. Approximate  
21 rates provided by insurers pursuant to such questionnaire shall be used only for  
22 informational purposes and shall create no contractual obligation on the part of an insurer  
23 to offer an individual a policy at such rate prior to completion of medical underwriting  
24 by such insurer. If identical policies are sold by an insurer on the GHM and outside the  
25 GHM, monthly premiums shall be comparable to each other for each policy. Information  
26 provided by consumers through the GHM for purposes of obtaining price quotes on  
27 products shall not be transferred outside the GHM or recorded in written or electronic  
28 form by the GHM;
- 29 (11) To develop a common battery of medical underwriting questions that can be  
30 uniformly utilized by health insurance companies on a voluntary basis to medically  
31 underwrite policies;
- 32 (12) To fix and collect fees and charges associated with the operation of the GHM,  
33 including but not limited to listing charges for health insurance companies and licensed  
34 insurance agents to register on the GHM; provided, however, that any fees and charges  
35 collected shall be used only for purposes of promoting the GHM to Georgia consumers  
36 and shall not be used for general administrative expenses associated with the GHM;

1 (13) To administer the GHM Marketing Trust Fund, as established in Code Section  
2 33-62-6;

3 (14) To deposit or invest funds held by it in any state depository or in any investment  
4 which is authorized for the investment of proceeds of state general obligation bonds and  
5 to use for its corporate purposes or redeposit or reinvest interest earned on such funds;

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

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

10 33-62-5.

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

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

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

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

24 (3) Traditional individual health insurance products sold by licensed Georgia insurers;

25 (4) Individual health care savings accounts, including any health care plan offering  
26 medical savings accounts, health reimbursement arrangement accounts, or health savings  
27 accounts.

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

35 'I understand I am purchasing a prepaid package of medical services. This package of  
36 services is not health insurance and provides only prepaid services at a discounted rate.

1 Purchasing this package without also purchasing catastrophic coverage insurance may  
2 leave me without coverage for many major medical problems.'

3 These services shall not be treated as insurance products under Georgia law. The  
4 Composite State Board of Medical Examiners shall be responsible for disciplining any  
5 physician or physician acting on behalf of a hospital for unprofessional conduct in  
6 offering or providing such services; and

7 (6) Individual catastrophic coverage products only as authorized pursuant to Code  
8 Section 33-62-8.

9 (c) The GHM shall provide consumers who identify health care products on the GHM the  
10 option of contacting a health insurance company or a licensed insurance agent by telephone  
11 or direct electronic referral to the agent or company website when he or she has additional  
12 questions about a product at any point in the selection process, or is ready to purchase a  
13 product. For consumers choosing the licensed insurance agent option, licensed agents  
14 selling the selected plan shall be listed in the order directed by the authority, with that order  
15 being determined by professional qualifications of the agent and the agent's geographical  
16 proximity to the address given by the consumer; provided, however, that the authority may  
17 take into consideration a licensed insurance agent's history of consumer complaints against  
18 such agent in the listed order. The authority shall include on the GHM a description of the  
19 important role of licensed agents in educating consumers on health insurance products.  
20 Each agent listing provided to the consumer shall include a list of the GHM vendor  
21 companies for which the agent is licensed.

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

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

27 (f) All insurance policies offered for sale on the GHM shall include coverage for the  
28 following procedures which are critical to the early detection of life-threatening diseases:  
29 ovarian cancer screening, colorectal cancer screening, diabetes screening, pap smears,  
30 mammograms, and prostate specific antigen tests. Further, policies offered for sale on the  
31 GHM which include a primary care component shall offer beneficiaries the choice of  
32 designating an obstetrician or gynecologist as their primary care physician.

33 33-62-6.

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

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

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

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

16 33-62-7.

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

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

23 33-62-8.

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

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

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

3 (3) Be offered only through the GHM by participating insurers and agents; and

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

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

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

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

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

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

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

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

26 (e) All products offered for sale on the GHM pursuant to this Code section shall include  
27 coverage for the following procedures which are critical to the early detection of  
28 life-threatening diseases: ovarian cancer screening, colorectal cancer screening, diabetes  
29 screening, pap smears, mammograms, and prostate specific antigen tests. Further, products  
30 offered under this Code section which include a primary care component shall offer  
31 beneficiaries the choice of designating an obstetrician or gynecologist as their primary care  
32 physician.

33 33-62-9.

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

1 **SECTION 2.**

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

4 **SECTION 3.**

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