

The Senate Government Oversight Committee offered the following substitute to HB 1221:

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 change the minimum number of employees required to be covered under an insurance
3 contract or contracts held by a corporation or trustee; to enact the "Georgia Health
4 Marketplace Act"; to establish the Georgia Health Marketplace to provide access to health
5 care products for Georgia consumers; to provide for definitions; to establish the Georgia
6 Health Marketplace Authority; to provide for its membership and powers; to provide for
7 health care products and programs in the Georgia Health Marketplace; to create a marketing
8 trust fund; to provide for limited liability; to provide for consumer complaints; to provide for
9 catastrophic coverage products; to provide for rules and regulations; to provided for related
10 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
13 Section 33-24-6, relating to consent of an insured to an insurance contract and exceptions,
14 by revising paragraph (5) of subsection (a) as follows:
15

16 "(5) A corporation not described in paragraph (4) of this subsection may effectuate
17 insurance upon its employees in whom it has an insurable interest, and a trustee of a trust
18 established by a corporation providing life, health, disability, retirement, or similar
19 benefits may effectuate insurance upon employees for whom such benefits are to be
20 provided; if the insurance contract or contracts held by ~~the~~ such corporation or ~~the~~ trustee
21 cover at least ~~100~~ two employees. For purposes of this paragraph, any employee of a
22 group of corporations consisting of a parent corporation and its directly or indirectly
23 owned subsidiaries shall be considered to be an employee of each corporation within ~~the~~
24 that group; or"

SECTION 2.

1 Said title is further amended by adding a new chapter to read as follows:

2 "CHAPTER 62

3 33-62-1.

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

5 33-62-2.

6 For purposes of this chapter, the term:

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

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

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

11 (4) 'Fund' means the GHM Marketing Trust Fund, as established in Code Section
12 33-62-6.

13 (5) 'GHM' means the Georgia Health Marketplace established pursuant to Code Section
14 33-62-5.

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

18 33-62-3.

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

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

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

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

27 (3) The Commissioner of Insurance;

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

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

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

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

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

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

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

6 The initial members of the board shall be appointed to terms of office beginning July 1,
7 2008. All members shall serve for terms of three years; provided, however, that for the
8 purpose of providing for staggered terms, of the Lieutenant Governor's and Speaker's
9 initial appointments, one each shall be appointed for a term of one year, two years, and
10 three years, respectively. Any vacancy on the board shall be filled in the same manner as
11 the original appointment, and any member appointed to fill a vacancy occurring because
12 of death, resignation, or ineligibility for membership shall serve only for the unexpired
13 term of the member's predecessor. A member shall be eligible for reappointment.

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

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

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

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

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

1 33-62-4.

2 The authority shall have the following powers:

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

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

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

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

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

17 (6) To solicit, receive, and review proposals from technology vendors for the
18 development and implementation of technology to operate and maintain the GHM,
19 including an Internet website accessible to all Georgians;

20 (7) To identify health care products which fall under the categories set out in
21 paragraphs (2) through (6) of subsection (b) of Code Section 33-62-5 for inclusion in the
22 GHM, provided that the authority shall not have the power to directly issue insurance
23 policies;

24 (8) To suspend, at its sole discretion, products from inclusion in the GHM and
25 companies and entities from submitting products for inclusion based on evidence of
26 fraud, provided such suspension or any reinstatement shall occur only upon the written
27 request of the Commissioner or federal law enforcement authorities;

28 (9) To develop and approve specific measurement tools for consumers to use in
29 comparing health care products, including brief summaries of deductibles, copayment
30 requirements, covered providers, benefits, premiums, and coverage limits. To the
31 maximum extent possible, the authority shall utilize cost and quality measurements
32 established by the Georgia Health Information Technology and Transparency Advisory
33 Board;

34 (10) To develop a brief questionnaire of not more than ten questions to enable visitors
35 to the GHM website to obtain instant approximate price quotes consisting of either
36 specific prices or price ranges for products they may wish to purchase. Approximate
37 rates provided by insurers pursuant to such questionnaire shall be used only for

1 informational purposes and shall create no contractual obligation on the part of an insurer
 2 to offer an individual a policy at such rate prior to completion of medical underwriting
 3 by such insurer. If identical policies are sold by an insurer on the GHM and outside the
 4 GHM, monthly premiums shall be comparable to each other for each policy. Information
 5 provided by consumers through the GHM for purposes of obtaining price quotes on
 6 products shall not be transferred outside the GHM or recorded in written or electronic
 7 form by the GHM;

8 (11) To develop a common battery of medical underwriting questions that can be
 9 uniformly utilized by health insurance companies on a voluntary basis to medically
 10 underwrite policies;

11 (12) To fix and collect fees and charges associated with the operation of the GHM,
 12 including but not limited to listing charges for health insurance companies and licensed
 13 insurance agents to register on the GHM; provided, however, that any fees and charges
 14 collected shall be used only for purposes of promoting the GHM to Georgia consumers
 15 and shall not be used for general administrative expenses associated with the GHM;

16 (13) To administer the GHM Marketing Trust Fund, as established in Code Section
 17 33-62-6;

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

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

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

25 33-62-5.

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

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

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

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

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

5 (4) Individual health care savings accounts, including any health care plan offering
 6 medical savings accounts, health reimbursement arrangement accounts, or health savings
 7 accounts.

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

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

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

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

25 (c) The GHM shall provide consumers who identify health care products on the GHM the
 26 option of contacting a health insurance company or a licensed insurance agent by telephone
 27 or direct electronic referral to the agent or company website when he or she has additional
 28 questions about a product at any point in the selection process, or is ready to purchase a
 29 product. For consumers choosing the licensed insurance agent option, licensed agents
 30 selling the selected plan shall be listed in the order directed by the authority, with that order
 31 being determined by professional qualifications of the agent and the agent's geographical
 32 proximity to the address given by the consumer; provided, however, that the authority may
 33 take into consideration a licensed insurance agent's history of consumer complaints against
 34 such agent in the listed order. The authority shall include on the GHM a description of the
 35 important role of licensed agents in educating consumers on health insurance products.
 36 Each agent listing provided to the consumer shall include a list of the GHM vendor
 37 companies for which the agent is licensed.

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

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

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

12 33-62-6.

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

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

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

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

30 33-62-7.

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

33 (b) Consumer complaints relating to health care products and programs purchased or
34 enrolled in through the GHM shall be handled in the same manner as would be applicable

1 if the consumer purchased or enrolled in the health care product or program through other
2 means.

3 33-62-8.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 33-62-9.

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

16 **SECTION 3.**

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

19 **SECTION 4.**

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