

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

AS PASSED

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

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

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

13 "ARTICLE 7C

14 49-4-169.

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

1 under the Medicaid Early Periodic Screening, Diagnostic, and Treatment Program and that
 2 categorically needy and medically fragile children have available to them the same scope,
 3 duration, and amount of services. It is also the intent of this article to simplify the process
 4 and paperwork by which occupational, speech, and physical therapy services are applied
 5 for and received by eligible recipients.

6 49-4-169.1.

7 As used in this article, the term:

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

12 (2) 'Department' means the Department of Community Health.

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

15 (4) 'Medically necessary services' means services or treatments that are prescribed by a
 16 physician or other licensed practitioner, and which, pursuant to the EPSDT Program,
 17 diagnose or correct or ameliorate defects, physical and mental illnesses, and health
 18 conditions, whether or not such services are in the state plan.

19 (5) 'Therapy services' means occupational therapy, speech therapy, physical therapy, or
 20 other services provided pursuant to the EPSDT Program to an eligible Medicaid
 21 beneficiary 21 years of age or younger and which are recommended as medically
 22 necessary by a physician.

23 49-4-169.2.

24 All persons who are 21 years of age or younger who are eligible for services under the
 25 EPSDT Program shall receive therapy services in accordance with the provisions of this
 26 article, whether they are categorically needy children enrolled in the low income Medicaid
 27 program or medically fragile children enrolled in the aged, blind, and disabled Medicaid
 28 program.

29 49-4-169.3.

30 (a) The department shall develop and implement for itself, the care management
 31 organizations with which it enters into contracts, and its utilization review vendors
 32 consistent requirements, paperwork, and procedures for utilization review and prior
 33 approval of physical occupational, or speech language pathologist services prescribed for

1 children. Prior approval for therapy services shall be for a period of up to six months as
2 consistent with the needs of the individual recipient.

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

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

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

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

13 (c) Notwithstanding any other provision of law, the department, its utilization review
14 vendors, or its care management organizations shall grant prior approval for requests for
15 therapy services when the recipient is eligible for Medicaid services and the services
16 prescribed are medically necessary.

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

20 (e) Prescriptions and prior approval for services shall be for general areas of treatment,
21 treatment goals, or ranges of specific treatments or processing codes. Clinical coverage
22 criteria or guidelines, including restrictions such as location of service and prohibitions on
23 multiple services on the same day or at the same time, shall not be the sole determinant
24 used by the department, its utilization vendors, or its care management organizations to
25 limit the EPSDT standards or its medically necessary definition in this article. Any such
26 restrictions shall be waived under the EPSDT Program or this article if the prescribed
27 services are medically necessary.

28 (f) Nothing in this article shall be construed to prohibit the department, its utilization
29 review vendors, or its care management organizations from performing utilization reviews
30 of the diagnosis or treatment of a child receiving therapy services pursuant to the EPSDT
31 Program, the amount, duration, or scope or the actual performance or delivery of such
32 services by providers, so long as such utilization review does not unreasonably deny or
33 unreasonably delay the provision of medically necessary services to the recipient.

34 (g) Nothing in this article shall be deemed to prohibit or restrict the department, its
35 utilization review vendors, or its care management organizations from denying claims or
36 prosecuting or pursuing beneficiaries or providers who submit false or fraudulent
37 prescriptions, forms required to implement this article, or claims for services or whose

1 eligibility as a beneficiary or a participating provider has been based on intentionally false
2 information."

3 **SECTION 2.**

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

6 **SECTION 3.**

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