

Senate Bill 50

By: Senators Hudgens of the 47th, Hawkins of the 49th and Smith of the 52nd

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 provide definitions; to provide for applicability; to provide for the registration of certain
3 contracting entities; to prohibit access to a provider's health care services and contractual
4 discounts by certain contracting entities under certain circumstances; to provide certain
5 requirements for contracting entities; to provide for the rights and responsibilities of third
6 parties; to prohibit unauthorized access to provider network contracts; to provide for
7 enforcement; to provide 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 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
11 adding a new chapter to read as follows:

12 "Chapter 20C

13 33-20C-1.

14 As used in this chapter, the term:

15 (1) 'Commissioner' means the Commissioner of Insurance.

16 (2) 'Contracting entity' means any person or entity that enters into direct contracts with
17 providers for the delivery of health care services in the ordinary course of business.

18 (3) 'Covered individual' means an individual who is covered under a health insurance plan.

19 (4) 'Department' means the Department of Insurance.

20 (5) 'Direct notification' means a written or electronic communication from a contracting
21 entity to a provider documenting third party access to a provider network.

22 (6) 'Health care services' means the examination or treatment of persons for the prevention
23 of illness or the correction or treatment of any physical or mental condition resulting from
24 illness, injury, or other human physical problem and includes, but is not limited to:

25 (A) Hospital services which include the general and usual care, services, supplies, and
26 equipment furnished by hospitals;

27 (B) Medical services which include the general and usual services and care rendered and
28 administered by doctors of medicine, doctors of dental surgery, and doctors of podiatry;
29 and

30 (C) Other health care services which include appliances and supplies; nursing care by a
31 registered nurse or a licensed practical nurse; care furnished by such other licensed
32 practitioners as may be expressly approved by the board of directors from time to time;
33 institutional services, including the general and usual care, services, supplies, and
34 equipment furnished by health care institutions and agencies or entities other than
35 hospitals; physiotherapy; ambulance services; drugs and medications; therapeutic services
36 and equipment, including oxygen and the rental of oxygen equipment; hospital beds; iron
37 lungs; orthopedic services and appliances, including wheelchairs, trusses, braces,
38 crutches, and prosthetic devices, including artificial limbs and eyes; and any other
39 appliance, supply, or service related to health care.

40 (7) 'Health insurance plan' means any hospital and medical expense incurred policy,
41 nonprofit health care service plan contract, health maintenance organization subscriber
42 contract, or any other health care plan or arrangement that pays for or furnishes medical or
43 health care services, whether by insurance or otherwise. The term shall not include any of
44 the following: coverage only for accident or disability income insurance; coverage issued
45 as a supplement to liability insurance; liability insurance, including general liability
46 insurance and automobile liability insurance; automobile medical payment insurance;
47 credit-only insurance; coverage for on-site medical clinics; coverage similar to the
48 foregoing as specified in federal regulations issued pursuant to Pub. L. No. 104-191, under
49 which benefits for medical care are secondary or incidental to other insurance benefits;
50 dental or vision benefits; benefits for long-term care, nursing home care, home health care,
51 or community based care; specified disease or illness coverage, hospital indemnity or other
52 fixed indemnity insurance, or such other similar, limited benefits as are specified in
53 regulations; medicare supplemental health insurance as defined under Section 1882(g)(1)
54 of the federal Social Security Act; coverage supplemental to the coverage provided under
55 Chapter 55 of Title 10 of the United States Code; or other similar limited benefit
56 supplemental coverages.

57 (8) 'Provider' means a physician licensed pursuant to Article 2 of Chapter 34 of Title 43,
58 a physician organization, or a physician hospital organization that is acting exclusively as
59 an administrator on behalf of a provider to facilitate the provider's participation in health
60 care contracts. The term shall not include a physician organization or physician hospital
61 organization that leases or rents the physician organization's or physician hospital
62 organization's network to a third party.

63 (9) 'Provider network contract' means a contract between a contracting entity and a
64 provider specifying the rights and responsibilities of the contracting entity and provider for
65 the delivery of and payment for health care services to covered individuals.

66 (10) 'Third party' means an organization that enters into a contract with a contracting entity
67 or with another third party to gain access to a provider network contract.

68 33-20C-2.

69 (a) This chapter shall not apply to provider network contracts for services provided to
70 Medicaid, medicare, or State Children's Health Insurance Program (SCHIP) beneficiaries.

71 (b) This chapter shall not apply in circumstances where access to the provider network
72 contract is granted to an entity operating under the same brand licensee program as the
73 contracting entity.

74 (c) This chapter shall not apply to a contract between a contracting entity and a discount
75 medical plan organization.

76 33-20C-3.

77 (a) Any person who commences business as a contracting entity shall register with the
78 Commissioner within 30 days of commencing business in this state unless such person is
79 licensed by the Commissioner as an insurer. Effective July 1, 2009, each person not
80 licensed by the Commissioner as a contracting entity shall be required to register with the
81 Commissioner within 90 days following July 1, 2009.

82 (b) Registration shall consist of the submission of the following information:

83 (1) The official name of the contracting entity, including any d/b/a designations used in
84 this state;

85 (2) The mailing address and main telephone number for the contracting entity's main
86 headquarters; and

87 (3) The name and telephone number of the contracting entity's representative who shall
88 serve as the primary contact with the department.

89 (c) The information required by this Code section shall be submitted in written or
90 electronic format, as prescribed by the Commissioner by rule or regulation.

91 (d) The Commissioner may, pursuant to rule or regulation, collect a reasonable fee for the
92 purpose of administering the registration process.

93 33-20C-4.

94 (a) A contracting entity shall not grant access to a provider's health care services and
95 contractual discounts pursuant to a provider network contract unless:

- 96 (1) The provider network contract specifically states that the contracting entity may enter
97 into an agreement with a third party allowing the third party to obtain the contracting
98 entity's rights and responsibilities under the provider network contract as if the third party
99 were the contracting entity; and
- 100 (2) The third party accessing the provider network contract is contractually obligated to
101 comply with all applicable terms, limitations, and conditions of the provider network
102 contract.
- 103 (b) A contracting entity that grants access to a provider's health care services and
104 contractual discounts pursuant to a provider network contract shall:
- 105 (1) Identify and provide to the provider, at the time a provider network contract is
106 entered into with a provider, a written or electronic list of all third parties known at the
107 time of contracting to which the contracting entity has or will grant access to the
108 provider's health care services and contractual discounts pursuant to a provider network
109 contract;
- 110 (2) Maintain an Internet website or other readily available mechanism, such as a toll-free
111 telephone number, through which a provider may obtain a listing, updated at least every
112 90 days, of the third parties to which the contracting entity or another third party has
113 executed contracts to grant access to such provider's health care services and contractual
114 discounts pursuant to a provider network contract;
- 115 (3) Provide the third party who contracts with the contracting entity to gain access to the
116 provider network contract with sufficient information regarding the provider network
117 contract to enable the third party to comply with all applicable terms, limitations, and
118 conditions of the provider network contract;
- 119 (4) Require that the third party who contracts with the contracting entity to gain access
120 to the provider network contract identify the source of the contractual discount taken by
121 the third party on each remittance advice (RA) or explanation of payment (EOP) form
122 furnished to a health care provider when such discount is pursuant to the contracting
123 entity's provider network contract; and
- 124 (5)(A) Notify the third party who contracts with the contracting entity to gain access
125 to the provider network contract of the termination of the provider network contract no
126 later than 30 days after receipt of notice of the termination of the provider network
127 contract; and
- 128 (B) Require those that are by contract eligible to claim the right to access a provider's
129 discounted rate to cease claiming entitlement to those rates or other contracted rights
130 or obligations for services rendered after termination of the provider network contract.
131 The notice required under this paragraph may be provided through any reasonable

132 means, including, but not limited to: written notice, electronic communication, or an
133 update to an electronic data base or other provider listing.

134 (c) Subject to any applicable continuity of care requirements, agreements, or contractual
135 provisions:

136 (1) A third party's right to access a providers health care services and contractual
137 discounts pursuant to a provider network contract shall terminate on the date the provider
138 network contract is terminated;

139 (2) Claims for health care services performed after the termination date of the provider
140 network contract shall not be eligible for processing and payment in accordance with the
141 provider network contract; and

142 (3) Claims for health care services performed before the termination date of the provider
143 network contract, but processed after the termination date, shall be eligible for processing
144 and payment in accordance with the provider network contract.

145 (d) All information made available to a provider in accordance with the requirements of
146 this chapter shall be confidential and shall not be disclosed to any person or entity not
147 involved in the provider's practice or the administration thereof without the prior written
148 consent of the contracting entity.

149 (e) Nothing contained in this chapter shall be construed to prohibit a contracting entity
150 from requiring the provider to execute a reasonable confidentiality agreement to ensure that
151 confidential or proprietary information disclosed by the contracting entity is not used for
152 any purpose other than the provider's direct practice management or billing activities.

153 33-20C-5.

154 (a) A third party, having itself been granted access to a provider's health care services and
155 contractual discounts pursuant to a provider network contract, that subsequently grants
156 access to another third party shall be obligated to comply with the rights and
157 responsibilities imposed on contracting entities under Code Sections 33-20C-4 and
158 33-20C-6.

159 (b) A third party that enters into a contract with another third party to access a provider's
160 health care services and contractual discounts pursuant to a provider network contract shall
161 be obligated to comply with the rights and responsibilities imposed on third parties under
162 this Code section.

163 (c)(1) A third party shall provide to the contracting entity the location of an Internet
164 website, or identify another readily available mechanism such as a toll-free telephone
165 number, which the contracting entity will make available to the providers under the
166 provider network contract accessed through the contracting entity. The website or other
167 readily available mechanism shall identify the name of the person or entity to which the

168 third party subsequently grants access to the provider's health care services and
 169 contractual discounts pursuant to the provider network contract.

170 (2) The website shall allow the providers under the contracting entity's provider network
 171 contract access to the information referenced in paragraph (1) of this subsection and shall
 172 be updated on a routine basis as additional persons or entities are granted access. The
 173 website shall be updated to reflect all current persons and entities with access every 90
 174 days. Upon request, a contracting entity shall make updated access information available
 175 to a provider by telephone or through direct notification.

176 33-20A-6.

177 (a) It shall be an unfair trade practice for the purposes of Article 1 of Chapter 6 of this title
 178 to knowingly access or utilize a provider's contractual discount pursuant to a provider
 179 network contract without a contractual relationship with the provider, contracting entity,
 180 or third party, as specified in this chapter.

181 (b) A provider may refuse the discount taken on services referenced on a remittance advice
 182 (RA) or explanation of payment (EOP) if the provider did not receive notice by ID card or
 183 pursuant to paragraph 2 of subsection (b) of Code Section 33-20C-4 or subsection (c) of
 184 Code Section 33-20C-5 prior to the services referenced in the RA or EOP.

185 (c) A contracting entity shall not lease, rent, or otherwise grant to a third party access to
 186 a provider network contract unless the third party accessing the health care contract is:

187 (1) A payer or third party administrator or another entity that administers or processes
 188 claims on behalf of the payer;

189 (2) A preferred provider organization or preferred provider network, including a
 190 physician organization or physician-hospital organization; or

191 (3) An entity engaged in the electronic claims transport between the contracting entity
 192 and the payer that does not provide access to the provider's services and discount to any
 193 other third party.

194 33-20C-7.

195 A violation of this chapter shall be an unfair trade practice under Article 1 of Chapter 6 of
 196 this title and shall be subject to the same enforcement as provided in such article."

197 **SECTION 2.**

198 This Act shall become effective on July 1, 2009.

199 **SECTION 3.**

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