

Senate Bill 62

By: Senators Hudgens of the 47th, Hawkins of the 49th and Butterworth of the 50th

**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 provide certain definitions; to include plan administrators in prompt pay requirements; to  
3 provide for penalties; to provide for related matters; to provide for an effective date; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
8 revising Code Section 33-23-100, relating to the definition of administrator, as follows:

9 "33-23-100.

10 (a) As used in this article, the term:

11 (1) 'Administrator' means any business entity that, directly or indirectly, collects charges,  
12 fees, or premiums; adjusts or settles claims, including investigating or examining claims  
13 or receiving, disbursing, handling, or otherwise being responsible for claim funds; ~~and~~  
14 or provides underwriting or precertification and preauthorization of hospitalizations or  
15 medical treatments for residents of this state for or on behalf of any insurer, including  
16 business entities that act on behalf of ~~multiple~~ a single or multiple employer  
17 self-insurance health plans, and plan or a self-insured municipalities municipality or other  
18 political subdivisions subdivision. Licensure is also required for administrators who act  
19 on behalf of self-insured plans providing workers' compensation benefits pursuant to  
20 Chapter 9 of Title 34. For purposes of this article, each activity undertaken by the  
21 administrator on behalf of an insurer or the client of the administrator is considered a  
22 transaction and is subject to the provisions of this title.

23 (2) 'Business entity' means a corporation, association, partnership, sole proprietorship,  
24 limited liability company, limited liability partnership, or other legal entity.

25 (3) 'Standard financial quarter' means a three-month period ending on March 31, June  
26 30, September 30, or December 31 of any calendar year.

27 (b) Notwithstanding the provisions of subsection (a) of this Code section, the following  
 28 are exempt from licensure ~~as~~ so long as such entities are acting directly through their  
 29 officers and employees:

30 (1) An employer on behalf of its employees or the employees of one or more subsidiary  
 31 or affiliated corporations of such employer;

32 (2) A union on behalf of its members;

33 (3) An insurance company licensed in this state or its affiliate unless the affiliate  
 34 administrator is placing business with a nonaffiliate insurer not licensed in this state;

35 (4) An insurer which is not authorized to transact insurance in this state if such insurer  
 36 is administering a policy lawfully issued by it in and pursuant to the laws of a state in  
 37 which it is authorized to transact insurance;

38 (5) A life or accident and sickness insurance agent or broker licensed in this state whose  
 39 activities are limited exclusively to the sale of insurance;

40 (6) A creditor on behalf of its debtors with respect to insurance covering a debt between  
 41 the creditor and its debtors;

42 (7) A trust established in conformity with 29 U.S.C. Section 186 and its trustees, agents,  
 43 and employees acting thereunder;

44 (8) A trust exempt from taxation under Section 501(a) of the Internal Revenue Code and  
 45 its trustees and employees acting thereunder or a custodian and its agents and employees  
 46 acting pursuant to a custodian account which meets the requirements of Section 401(f)  
 47 of the Internal Revenue Code;

48 (9) A bank, credit union, or other financial institution which is subject to supervision or  
 49 examination by federal or state banking authorities;

50 (10) A credit card issuing company which advances for and collects premiums or charges  
 51 from its credit card holders who have authorized it to do so, provided that such company  
 52 does not adjust or settle claims;

53 (11) A person who adjusts or settles claims in the normal course of his or her practice or  
 54 employment as an attorney and who does not collect charges or premiums in connection  
 55 with life or accident and sickness insurance coverage or annuities;

56 ~~(12) A business entity that acts solely as an administrator of one or more bona fide~~  
 57 ~~employee benefit plans established by an employer or an employee organization, or both,~~  
 58 ~~for whom the insurance laws of this state are preempted pursuant to the federal Employee~~  
 59 ~~Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq. An insurance~~  
 60 ~~company licensed in this state or its affiliate if such insurance company or its affiliate is~~  
 61 ~~solely administering limited benefit insurance. For the purpose of this paragraph, the~~  
 62 ~~term 'limited benefit insurance' means accident or sickness insurance designed,~~  
 63 ~~advertised, and marketed to supplement major medical insurance, specifically: accident~~

64 only, CHAMPUS supplement, disability income, fixed indemnity, long-term care, or  
 65 specified disease; or

66 (13) An association that administers workers' compensation claims solely on behalf of  
 67 its members.

68 (c) A business entity claiming an exemption shall submit an exemption notice on a form  
 69 provided by the Commissioner. This form must be signed by an officer of the company  
 70 and submitted to the department by December 31 of the year prior to the year for which an  
 71 exemption is to be claimed. Such exemption notice shall be updated in writing within 30  
 72 days if the basis for such exemption changes. An administrator claiming an exemption  
 73 pursuant to paragraphs (3) and (4) of subsection (b) of this Code section shall be subject  
 74 to the provisions of Code Sections 33-24-59.5 and 33-24-59.13.

75 (d) Obtaining a license as an administrator does not exempt the applicant from other  
 76 licensing requirements under this title.

77 (e) Obtaining a license as an administrator subjects the applicant to the provisions of Code  
 78 Sections 33-24-59.5 and 33-24-59.13.

79 (f) An administrator shall be subject to Code Sections 33-24-59.5 and 33-24-59.13 unless  
 80 the administrator provides sufficient evidence that the self-insured health plan failed to  
 81 properly fund the plan to allow the administrator to pay any outside claim."

## 82 **SECTION 2.**

83 Said title is further amended by revising Code Section 33-24-59.5, relating to timely payment  
 84 of health benefits, as follows:

85 "33-24-59.5.

86 (a) As used in this Code section, the term:

87 (1) 'Benefits' means the coverages provided by a health benefit plan for financing or  
 88 delivery of health care goods or services; but such term does not include capitated  
 89 payment arrangements under managed care plans.

90 (2) 'Health benefit plan' means any hospital or medical insurance policy or certificate,  
 91 health care plan contract or certificate, qualified higher deductible health plan, health  
 92 maintenance organization subscriber contract, any health benefit plan established  
 93 pursuant to Article 1 of Chapter 18 of Title 45, or any dental or vision care plan or policy,  
 94 or managed care plan or self-insured plan; but health benefit plan does not include  
 95 policies issued in accordance with Chapter 31 of this title; disability income policies; or  
 96 Chapter 9 of Title 34, relating to workers' compensation.

97 (3) 'Insurer' means an accident and sickness insurer, fraternal benefit society, nonprofit  
 98 hospital service corporation, nonprofit medical service corporation, health care  
 99 corporation, health maintenance organization, provider sponsored health care corporation,

100 or any similar entity and any self-insured health benefit plan ~~not subject to the exclusive~~  
 101 ~~jurisdiction of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C.~~  
 102 ~~Section 1001, et seq.~~, which entity provides for the financing or delivery of health care  
 103 services through a health benefit plan, the plan administrator of any health plan, or the  
 104 plan administrator of any health benefit plan established pursuant to Article 1 of Chapter  
 105 18 of Title 45 or any other administrator as defined in paragraph (1) of subsection (a) of  
 106 Code Section 33-23-100.

107 (b)(1) All benefits under a health benefit plan will be payable by the insurer which is  
 108 obligated to finance or deliver health care services under that plan upon such insurer's  
 109 receipt of written or electronic proof of loss or claim for payment for health care goods  
 110 or services provided. The insurer shall within 15 working days for electronic claims or  
 111 30 calendar days for paper claims after such receipt mail or send electronically to the  
 112 insured or other person claiming payments under the plan payment for such benefits or  
 113 a letter or electronic notice which states the reasons the insurer may have for failing to  
 114 pay the claim, either in whole or in part, and which also gives the person so notified a  
 115 written itemization of any documents or other information needed to process the claim  
 116 or any portions thereof which are not being paid. Where the insurer disputes a portion  
 117 of the claim, any undisputed portion of the claim shall be paid by the insurer in  
 118 accordance with this chapter. When all of the listed documents or other information  
 119 needed to process the claim has been received by the insurer, the insurer shall then have  
 120 15 working days for electronic claims or 30 calendar days for paper claims within which  
 121 to process and either mail payment for the claim or a letter or notice denying it, in whole  
 122 or in part, giving the insured or other person claiming payments under the plan the  
 123 insurer's reasons for such denial.

124 (2) Receipt of any proof, claim, or documentation by an entity which administrates or  
 125 processes claims on behalf of an insurer shall be deemed receipt of the same by the  
 126 insurer for purposes of this Code section.

127 (c) Each insurer shall pay to the insured or other person claiming payments under the  
 128 health benefit plan interest equal to ~~18~~ 12 percent per annum on the proceeds or benefits  
 129 due under the terms of such plan for failure to comply with subsection (b) of this Code  
 130 section.

131 (d) An insurer may only be subject to an administrative penalty by the Commissioner as  
 132 authorized by the insurance laws of this state when such insurer processes less than 95  
 133 percent of all claims in a standard financial quarter in compliance with paragraph (1) of  
 134 subsection (b) of this Code section. Such penalty shall be assessed on data collected by the  
 135 Commissioner.

136 (e) This Code section shall be applicable when an insurer is adjudicating claims for its  
 137 fully insured business or its business as a third-party administrator."

138 **SECTION 3.**

139 Said title is further amended in Article 1 of Chapter 24, relating to general provisions  
 140 concerning insurance, by adding a new Code section to read as follows:

141 "33-24-59.13.

142 (a) As used in this Code section, the term:

143 (1) 'Administrator' shall have the same meaning as provided in Code Section 33-23-100.

144 (2) 'Benefits' shall have the same meaning as provided in Code Section 33-24-59.5.

145 (3) 'Facility' shall have the same meaning as provided in Code Section 33-20A-3.

146 (4) 'Health benefit plan' shall have the same meaning as provided in Code  
 147 Section 33-24-59.5.

148 (5) 'Health care provider' shall have the same meaning as provided in Code  
 149 Section 33-20A-3.

150 (6) 'Insurer' means an accident and sickness insurer, fraternal benefit society, nonprofit  
 151 hospital service corporation, nonprofit medical service corporation, health care  
 152 corporation, health maintenance organization, provider sponsored health care corporation,  
 153 or any similar entity, which entity provides for the financing or delivery of health care  
 154 services through a health benefit plan, the plan administrator of any health plan, or the  
 155 plan administrator of any health benefit plan established pursuant to Article 1 of Chapter  
 156 18 of Title 45.

157 (b)(1) All benefits under a health benefit plan will be payable by the insurer or  
 158 administrator which is obligated to finance or deliver health care services or process  
 159 claims under that plan upon such insurer's or administrator's receipt of written or  
 160 electronic proof of loss or claim for payment for health care goods or services provided.  
 161 The insurer or administrator shall within 15 working days for electronic claims or 30  
 162 calendar days for paper claims after such receipt mail or send electronically to the facility  
 163 or health care provider claiming payments under the plan payment for such benefits or  
 164 a letter or notice which states the reasons the insurer or administrator may have for failing  
 165 to pay the claim, either in whole or in part, and which also gives the facility or health care  
 166 provider so notified a written itemization of any documents or other information needed  
 167 to process the claim or any portions thereof which are not being paid. Where the insurer  
 168 or administrator disputes a portion of the claim, any undisputed portion of the claim shall  
 169 be paid by the insurer or administrator in accordance with this chapter. When all of the  
 170 listed documents or other information needed to process the claim have been received by  
 171 the insurer or administrator, the insurer or administrator shall then have 15 working days

172 for electronic claims or 30 calendar days for paper claims within which to process and  
173 either mail payment for the claim or a letter or notice denying it, in whole or in part,  
174 giving the facility or health care provider claiming payments under the plan the insurer's  
175 or administrator's reasons for such denial.

176 (2) Receipt of any proof, claim, or documentation by an entity which administers or  
177 processes claims on behalf of an insurer shall be deemed receipt of the same by the  
178 insurer for purposes of this Code section.

179 (c) Each insurer or administrator shall pay to the facility or health care provider claiming  
180 payments under the health benefit plan interest equal to 12 percent per annum on the  
181 proceeds or benefits due under the terms of such plan for failure to comply with subsection  
182 (b) of this Code section.

183 (d) An insurer or administrator may only be subject to an administrative penalty by the  
184 Commissioner as authorized by the insurance laws of this state when such insurer or  
185 administrator processes less than 95 percent of all claims in a standard financial quarter in  
186 compliance with paragraph (1) of subsection (b) of this Code section. Such penalty shall  
187 be assessed on data collected by the Commissioner.

188 (e) This Code section shall be applicable when an insurer is adjudicating claims for its  
189 fully insured business or its business as a third-party administrator."

190 **SECTION 4.**

191 This Act shall become effective on January 1, 2011.

192 **SECTION 5.**

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