

House Bill 700

By: Representatives Epps of the 144th, Weldon of the 3rd, Hawkins of the 27th, and Gardner of the 57th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7C of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
2 relating to therapy services for children with disabilities, so as to revise provisions relating
3 to therapy services under Medicaid for children with disabilities; to provide for requirements
4 relating to the Children's Intervention Services Program; to provide for related matters; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 7C of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
9 therapy services for children with disabilities, is amended by revising Code Section
10 49-4-169.1, relating to definitions, as follows:

11 "49-4-169.1.

12 As used in this article, the term:

13 (1) 'CIS Program' means the Children's Intervention Services program within the EPSDT
14 Program.

15 ~~(1)~~(2) 'Correct or ameliorate' means to improve or maintain a child's health in the best
16 condition possible, compensate for a health problem, prevent it from worsening, prevent
17 the development of additional health problems, or improve or maintain a child's overall
18 health, even if treatment or services will not cure the recipient's overall health.

19 ~~(2)~~(3) 'Department' means the Department of Community Health.

20 (4) 'Discipline' means behavioral health services or counseling, occupational therapy,
21 speech therapy, or physical therapy.

22 ~~(3)~~(5) 'EPSDT Program' means the federal Medicaid Early Periodic Screening,
23 Diagnostic, and Treatment Program contained at 42 U.S.C.A. Sections 1396a and 1396d.

24 ~~(4)~~(6) 'Medically necessary services' means services or treatments that are prescribed by
25 a physician or other licensed practitioner, and which, pursuant to the EPSDT Program or

26 the CIS Program, diagnose or correct or ameliorate defects, physical and mental illnesses,
 27 and health conditions, whether or not such services are in the state plan.

28 (7) 'Plan of care' means the written service plan signed and dated by the physician or
 29 other provider ordering the therapy services as well as the plan of care developed by the
 30 provider of therapy services for approval of therapy services under the CIS program.

31 ~~(5)~~(8) 'Therapy services' means behavioral health services or counseling, occupational
 32 therapy, speech therapy, physical therapy, or other services provided pursuant to the
 33 EPSDT Program or the CIS Program to an eligible Medicaid beneficiary 21 years of age
 34 or younger and which are recommended as medically necessary by a physician."

35 **SECTION 2.**

36 Said article is further amended by revising Code Section 49-4-169.2, relating to services and
 37 treatment for categorically needy and medically fragile children, as follows:

38 "49-4-169.2.

39 (a) All persons who are 21 years of age or younger who are eligible for services under the
 40 EPSDT Program or the CIS Program shall receive therapy services in accordance with the
 41 provisions of this article, ~~whether they are categorically needy children enrolled in the low~~
 42 ~~income Medicaid program or medically fragile children enrolled in the aged, blind, and~~
 43 ~~disabled Medicaid program.~~

44 (b) The department and the care management organizations with which it contracts shall
 45 at all times enroll and maintain in their provider network a sufficient number of pediatric
 46 providers of therapy services who are actively filing claims for therapy services to meet the
 47 needs of recipients in the EPSDT Program and CIS Program in all areas of this state."

48 **SECTION 3.**

49 Said article is further amended by revising Code Section 49-4-169.3, relating to requirements
 50 relating to administrative prior approval for services and appeals, as follows:

51 "49-4-169.3.

52 (a) The department shall develop and implement for itself, the care management
 53 organizations with which it ~~enters into~~ contracts, and its utilization review vendors
 54 consistent requirements, paperwork, and procedures for utilization review and prior
 55 approval of ~~physical, occupational, or speech language pathologist~~ therapy services
 56 prescribed for children. Approval of therapy services shall be based on the individual
 57 needs of the child for whom approval is sought by a provider, without limitation as to any
 58 diagnosis of such child and shall also meet the following conditions:

59 (1) If prescribed as medically necessary services and consistent with a plan of care, prior
 60 Prior approval for therapy services for chronic conditions shall be for a period of ~~up to~~

61 six months with a frequency and session duration that is as consistent with the needs of
 62 the individual recipient;

63 (2) If prescribed as medically necessary services and consistent with a plan of care,
 64 therapy services that sustain or support in addition to those that cure or improve health
 65 problems shall not be denied. Services shall be covered when they prevent a health
 66 condition from worsening, prevent development of additional health problems, or
 67 improve a child's condition. Approval for a requested type of therapy service shall not
 68 be denied on the basis that the requested or similar requested services have not resulted
 69 in or are unlikely to result in the child making progress; and

70 (3) If prescribed as medically necessary services and consistent with a plan of care,
 71 approval for a requested type of therapy service shall not be denied solely on the basis
 72 that such service is contained within the Individualized Education Program authorized
 73 by the federal Individuals with Disabilities Education Act.

74 (b) The department, its utilization review vendors, or the care management organizations
 75 with which it contracts shall give notice to affected Medicaid recipients with a copy to the
 76 provider who submitted the prior approval request of the following information in cases
 77 where prior approval is denied:

78 (1) The medical procedure or service for which such entity is refusing to grant prior
 79 approval or is reducing the frequency, scale, or duration of the medical procedure or
 80 service being requested;

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

83 (3) The specific reason used by the entity to determine that the procedure is not
 84 medically necessary to treat or will not correct or ameliorate the condition of ~~to~~ the
 85 Medicaid recipient, including facts pertinent to the individual case.

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

90 (d) In cases where prior approval is required under this article, ~~it shall be decided with~~
 91 reasonable promptness, not to exceed 15 business days, and the department, its utilization
 92 review vendors, or its care management organizations and their vendors or subcontractors
 93 shall decide requests for therapy services with reasonable promptness, not to exceed five
 94 business days beginning on the date that the completed request for prior approval is
 95 received by the department, its utilization review vendors, or its care management
 96 organizations or their vendors or subcontractors and prior approval may not be denied until

97 it has been evaluated under guidelines established by the EPSDT Program or the CIS
 98 Program.

99 (e)(1) Prescriptions and prior approval for services shall be ~~for general areas of~~
 100 ~~treatment, treatment goals, or ranges of specific treatments or processing codes by~~
 101 discipline. When establishing treatment coverage guidelines, the department shall
 102 promulgate rules, regulations, and policies taking into consideration and utilizing when
 103 appropriate the guidelines established by the Centers for Medicare and Medicaid Services
 104 of the United States Department of Health and Human Services.

105 (2) Clinical coverage criteria or guidelines, including restrictions such as location of
 106 service and prohibitions on multiple services on the same day or at the same time, shall
 107 not be the sole determinant used by the department, its utilization vendors, or its care
 108 management organizations to limit either approval of therapy services under the EPSDT
 109 Program or CIS Program, the EPSDT standards, or its the definition of medically
 110 necessary ~~definition~~ in this article. Any such restrictions shall be waived under the
 111 EPSDT Program or CIS Program or this article if the prescribed services are medically
 112 necessary as defined in this article.

113 (f) Nothing in this article shall be construed to prohibit the department, its utilization
 114 review vendors, or its care management organizations from performing utilization reviews
 115 of the diagnosis or treatment of a child receiving therapy services pursuant to the EPSDT
 116 Program or the CIS Program, the amount, duration, or scope or the actual performance or
 117 delivery of such services by providers, so long as such utilization review is consistent with
 118 the provisions of this article and does not unreasonably deny or unreasonably delay the
 119 provision of medically necessary services to the recipient.

120 (g) Nothing in this article shall be deemed to prohibit or restrict the department, its
 121 utilization review vendors, or its care management organizations from denying claims or
 122 prosecuting or pursuing beneficiaries or providers who submit false or fraudulent
 123 prescriptions, forms required to implement this article, or claims for services or whose
 124 eligibility as a beneficiary or a participating provider has been based on intentionally false
 125 information."

126 SECTION 4.

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