

Senate Bill 145

By: Senators Harbin of the 16th, Jones of the 25th, Unterman of the 45th, Harbison of the 15th, Kirkpatrick of the 32nd and others

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 require insurers to develop selection standards for provider participation; to provide for  
3 definitions; to provide for tiered network standards; to provide for certain insurer  
4 notifications prior to provider termination from a tiered network; to provide for certain  
5 insurer requirements; to provide for appeal process and requirements; to provide for related  
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
10 adding a new chapter to read as follows:

11 "CHAPTER 20E

12 33-20E-1.

13 As used in this chapter, the term:

14 (1) 'Health care provider' or 'provider' means a health care professional, pharmacy, or  
15 facility.

16 (2) 'High-risk population' means a population presenting a risk of higher-than-average  
17 numbers of claims, losses, or health care utilization rates.

18 (3) 'Insurer' means an entity subject to the insurance laws and regulations of this state,  
19 or subject to the jurisdiction of the Commissioner, that contracts, offers to contract, or  
20 enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the  
21 costs of health care services, and shall include an accident and sickness insurance  
22 company, a health maintenance organization, a health care plan, or any other entity  
23 providing a health insurance plan, a health benefit plan, or health care services.

24 (4) 'Network' means the group or groups of participating health care providers providing  
 25 services under a network plan.

26 (5) 'Network plan' means a health benefit plan of an insurer that either requires a covered  
 27 person to use health care providers managed by, owned by, under contract with, or  
 28 employed by such insurer or a health benefit plan that creates incentives, including  
 29 financial incentives, for a covered person to use such health care providers.

30 (6) 'Tiers' or 'tiered network' means a network that identifies and groups some or all types  
 31 of providers and facilities into specific groups to which different provider reimbursement,  
 32 covered person cost sharing, or provider access requirements, or any combination thereof,  
 33 apply for the same services.

34 33-20E-2.

35 (a) An insurer shall develop standards for the selection of providers in the insurer's  
 36 network plan and the standards for the selection of providers in each health care specialty.  
 37 If the insurer offers a tiered network, such insurer shall develop standards for providers'  
 38 participation within each tier.

39 (b) Insurers shall use the standards developed pursuant to this Code section in selecting  
 40 providers to participate with the respective tiers.

41 (c) Insurers shall not establish tier selection and criteria in a manner that would:

42 (1) Allow an insurer to discriminate against high-risk populations by excluding or  
 43 placing providers in a tiered network based on their location in a geographic area that  
 44 contains high-risk populations; or

45 (2) Exclude providers because they treat or specialize in treating high-risk populations.

46 (d) Nothing in this Code section prohibits an insurer from offering specific networks or  
 47 products that are limited to designated service areas.

48 (e) An insurer shall make all applicable standards used for selecting and tier placement of  
 49 providers available for review by the Commissioner and shall communicate such standards  
 50 to providers that are participating in one or more of its networks. Additionally, an insurer  
 51 shall make a description of its standards, in plain language, available to the public.

52 33-20E-3.

53 Upon request, and not more than quarterly, an insurer shall provide a provider that is  
 54 participating in one or more of its tiered networks with a complete list of all network plans  
 55 and products such insurer offers to consumers, with an indication of the provider's  
 56 participation status within each network plan or product. The insurer shall respond to a  
 57 provider's request within 30 days after receipt of such request.

58 33-20E-4.

59 (a) An insurer shall neither terminate a participating provider nor place a participating  
60 provider in a tiered network without at least 60 days' written notice informing such  
61 provider of the pending action. Such notice shall:

62 (1) Contain an explanation of the reasons for the proposed action in sufficient detail to  
63 enable the participating provider to challenge such proposed action, referencing the  
64 information on which the insurer is relying for the determination;

65 (2) Inform the participating provider of the opportunity to request the insurer to  
66 reconsider the pending action and the period for completing the reconsideration process;  
67 and

68 (3) Inform the participating provider of the insurer's ability to rescind the pending action.

69 (b) An insurer shall establish procedures for a participating provider to request an insurer  
70 to reconsider its decision to terminate such participating provider or place such  
71 participating provider within a tiered network. Such procedures shall include:

72 (1) A method by which the participating provider may submit a request for the insurer  
73 to reconsider a proposed pending action, including the name of the person or division to  
74 whom or to which the participating provider is to submit such request; and

75 (2) An opportunity to submit or have the insurer consider evidence that may correct  
76 information relevant to the pending action.

77 (c) The insurer shall complete the informal reconsideration process within 45 days after  
78 the date such insurer received the request for reconsideration from the participating  
79 provider unless the insurer and participating provider agree to an alternative deadline to  
80 complete the informal reconsideration process.

81 (d) An insurer shall not implement the pending action specific to the participating provider  
82 that is the subject of a request for reconsideration until such insurer issues a final decision  
83 to grant or deny the request to reconsider the pending action.

84 (e) When an insurer does not select a provider to participate in such insurer's provider  
85 network, such insurer shall provide a written notification to such provider. The insurer  
86 shall not be required to provide an opportunity for reconsideration to a provider who is not  
87 participating in any of such insurer's participating provider networks at the time of such  
88 notification.

89 (f) When an insurer advertises a physician as a participating provider to a patient when  
90 such patient is selecting his or her insurance plan, such insurer shall cover the provider  
91 charges at in-network rates during the contract year for such patient.

92 (g) When an insurer advertises a particular drug at a particular price during such time as  
93 a patient is selecting his or her insurance plan, such insurer shall continue to offer such

94 patient that particular drug during the contract year for such patient at no more than the  
95 price advertised when such patient selected the insurance plan.

96 33-20E-5.

97 This chapter shall not:

98 (1) Prohibit an insurer from denying a provider that fails to meet selection criteria  
99 developed by the insurer in compliance with this chapter;

100 (2) Prohibit an insurer from creating an exclusive provider network; or

101 (3) Require an insurer to contract with any provider who is willing to abide by the terms  
102 and conditions for participation established by such insurer.

103 33-20E-6.

104 The Commissioner shall have the authority to enforce this chapter by requiring a corrective  
105 action plan that the insurer shall follow."

106 **SECTION 2.**

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