

House Bill 417

By: Representatives Knight of the 134th, Cooper of the 45th, Barton of the 5th, Houston of the 170th, and Hatchett of the 155th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
2 insurance generally, so as to prohibit insurers from discriminating against certain healthcare
3 facilities and providers in connection with the procurement, delivery, and administration of
4 provider administered drugs; to provide for definitions; to provide for violation; to provide
5 for construction; to provide for penalties; to provide for damages; to provide for related
6 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance
11 generally, is amended by adding a new Code section to read as follows:

12 "33-24-59.33.

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

14 (1) 'Cost-sharing amount' means coinsurance, deductibles, and any other amounts
15 imposed on an enrollee for a covered healthcare service under the covered person's health
16 benefit plan.

(2) 'Covered person' means a policyholder, subscriber, enrollee, member, or individual covered by a health benefit plan.

(3) 'Enrollee' means an individual who has elected to contract for or participate in a health benefit plan for such individual or for such individual and such individual's eligible dependents.

(4) 'Health benefit plan' means any hospital or medical insurance policy or certificate, healthcare plan contract or certificate, plan contract or certificate qualified higher deductible health plan, health maintenance organization or other managed care plan or subscriber contract, any health benefit plan established pursuant to Part 6 of Article 17 of Chapter 2 of Title 20 or Article 1 of Chapter 18 of Title 45, or a similar plan.

(5) 'Healthcare facility' means a hospital, ambulatory surgical center, birthing center, diagnostic and treatment center, hospice, outpatient clinic, healthcare provider's office, or similar institution.

(6) 'Healthcare provider' or 'provider' means any person, corporation, or healthcare facility licensed pursuant to Chapter 7 of Title 31 or Title 43 to provide healthcare services, including the administration of prescription medications, or otherwise lawfully administering prescription medications.

(7) 'Healthcare services' means services for the diagnosis, prevention, treatment, cure, or relief of a physical, mental, or behavioral health condition, illness, injury, or disease, including mental health and substance abuse disorder.

(8) 'Insurer' means an accident and sickness insurer, fraternal benefit society, healthcare corporation, health maintenance organization, managed care entity, provider sponsored healthcare corporation, or any similar entity regulated by the Commissioner or subject to the insurance laws and regulations of this state that provides, delivers, arranges for, finances, pays for, or reimburses any healthcare services through a health benefit plan, a plan administrator of any health benefit plan, a pharmacy benefits manager of any health benefit plan, a plan administrator of a health benefit plan established pursuant to

Part 6 of Article 17 of Chapter 2 of Title 20 or Article 1 of Chapter 18 of Title 45, or other administrator as defined in paragraph (1) of subsection (a) of Code Section 33-23-100.

(9) 'Network participation contract' means a contract between a healthcare provider and an insurer providing the terms and conditions under which the healthcare provider agrees to provide healthcare services to the insurer's covered persons.

(10) 'Participating healthcare provider' means a healthcare provider that has a network participation contract in effect with an insurer for healthcare services.

(11) 'Provider administered drug' means a prescription medication that is typically administered and billed by a healthcare provider and that the treating healthcare provider determines cannot be reasonably or safely self-administered by the patient to whom the medication is prescribed or by any individual, other than a healthcare provider, assisting the patient with the self-administration.

(b) An insurer that refuses to authorize, approve, or appropriately pay a participating healthcare provider for provider administered drugs or the administration of provider administered drugs and related services shall be in violation of this Code section.

(c) No insurer shall deny, restrict, refuse to authorize or approve, fail to cover, or reduce payment to a participating healthcare provider for a provider administered drug or the administration of a provider administered drug because the provider administered drug is:

(1) Procured or administered by the participating healthcare provider;

(2) Procured or administered by a participating healthcare provider that is not identified or selected by the insurer;

(3) Dispensed by or procured or obtained from a pharmacy, manufacturer, or supplier that is not identified or selected by the insurer; or

(4) Obtained by the participating healthcare provider from a pharmacy, manufacturer, or supplier that does not have a network participation contract with the insurer, provided

the drug supplied by such pharmacy, manufacturer, or supplier meets the requirements set forth in the federal Drug Supply Chain Security Act, Pub. L.113-54, as amended.

(d) No insurer shall require a covered person to pay a higher cost-sharing amount or any other additional amounts for a provider administered drug because the provider administered drug is:

(1) Procured or administered by a participating healthcare provider;

(2) Procured or administered by a participating healthcare provider that is not identified or selected by the insurer;

(3) Dispensed by or procured or obtained from a pharmacy, manufacturer, or supplier that is not identified or selected by the insurer; or

(4) Obtained from a pharmacy, manufacturer, or supplier that does not have a network participation contract with the insurer.

(e) No insurer shall consider, as part of a health benefit plan's medical necessity criteria, the source from which a provider administered drug is procured or the site of delivery or administration of a provider administered drug.

(f) No insurer shall authorize or permit another person or entity acting on its behalf, including a pharmacy benefits manager, to administer claims or benefits under a network participation contract in violation of this section.

(g) Nothing in this Code section shall prohibit an insurer from establishing differing copayments or other cost-sharing amounts within the health benefit plan for provider administered drugs procured from or through, or for the administration of provider administered drugs by a healthcare provider that is not a participating healthcare provider.

(h) Except as provided in this Code section, nothing herein shall prohibit an insurer from refusing to authorize or approve, or from denying coverage for, a provider administered drug based upon failure to satisfy the required terms of coverage in the health benefit plan, including medical necessity criteria, provided that such criteria comply with subsection (e) of this Code section.

97 (i) Without limiting any other remedies or state laws that may apply, noncompliance with
98 this Code section by an insurer may result in the imposition of penalties set forth in Code
99 Section 33-2-24.

100 (j) Any covered person or participating healthcare provider shall have a private right of
101 action against an insurer to enjoin any ongoing or threatened violation of this Code section
102 and to recover damages sustained as a result of the insurer's violation of this Code section."

103 **SECTION 2.**

104 This Act shall become effective on January 1, 2024, and shall apply to all health benefit plans
105 issued, delivered, issued for delivery, or renewed in this state on or after such date and all
106 provider administered drugs procured or administered on or after such date.

107 **SECTION 3.**

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