

Senate Bill 507

By: Senators Moody of the 56th, Carter of the 13th, Johnson of the 1st, Brown of the 26th, Butler of the 55th and others

AS PASSED

AN ACT

To amend Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance, so as to establish requirements for therapy services for children with disabilities detected under screening activities required by federal law; to provide for legislative findings; to provide for definitions; to assure similar treatments and services for categorically needy and medically fragile children; to provide certain requirements relating to administrative prior approval for services and appeals; to provide for statutory construction; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance, is amended by adding a new article to read as follows:

"ARTICLE 7C

49-4-169.

The General Assembly finds that changes in the approval process of certain health care programs have made it difficult for children with disabilities who are eligible for medical assistance pursuant to Article 7 of this chapter to receive the services to which they are entitled with the frequency and within the time periods which are appropriate. Separate administration of the categorically needy and the medically fragile programs should not result in any variation in the amount, duration, and scope of services. Redundant paperwork requirements have hampered service approvals and delivery and reduced the number of providers serving children. It is the intent of this article to ensure that children with disabilities receive the medically necessary therapy services to which they are entitled under the Medicaid Early Periodic Screening, Diagnostic, and Treatment Program and that

categorically needy and medically fragile children have available to them the same scope, duration, and amount of services. It is also the intent of this article to simplify the process and paperwork by which occupational, speech, and physical therapy services are applied for and received by eligible recipients.

49-4-169.1.

As used in this article, the term:

- (1) 'Correct or ameliorate' means to improve or maintain a child's health in the best condition possible, compensate for a health problem, prevent it from worsening, prevent the development of additional health problems, or improve or maintain a child's overall health, even if treatment or services will not cure the recipient's overall health.
- (2) 'Department' means the Department of Community Health.
- (3) 'EPSDT Program' means the federal Medicaid Early Periodic Screening, Diagnostic, and Treatment Program contained at 42 U.S.C.A. Sections 1396a and 1396d.
- (4) 'Medically necessary services' means services or treatments that are prescribed by a physician or other licensed practitioner, and which, pursuant to the EPSDT Program, diagnose or correct or ameliorate defects, physical and mental illnesses, and health conditions, whether or not such services are in the state plan.
- (5) 'Therapy services' means occupational therapy, speech therapy, physical therapy, or other services provided pursuant to the EPSDT Program to an eligible Medicaid beneficiary 21 years of age or younger and which are recommended as medically necessary by a physician.

49-4-169.2.

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

49-4-169.3.

(a) The department shall develop and implement for itself, the care management organizations with which it enters into contracts, and its utilization review vendors consistent requirements, paperwork, and procedures for utilization review and prior approval of physical occupational, or speech language pathologist services prescribed for

children. Prior approval for therapy services shall be for a period of up to six months as consistent with the needs of the individual recipient.

(b) The department, its utilization review vendors, or the care management organizations with which it contracts shall give notice to affected Medicaid recipients of the following information in cases where prior approval is denied:

(1) The medical procedure or service for which such entity is refusing to grant prior approval;

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

(3) The specific reason used by the entity to determine that the procedure is not medically necessary to the Medicaid recipient, including facts pertinent to the individual case.

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

(d) In cases where prior approval is required under this article, it shall be decided with reasonable promptness, not to exceed 15 business days, and may not be denied until it has been evaluated under the EPSDT Program.

(e) Prescriptions and prior approval for services shall be for general areas of treatment, treatment goals, or ranges of specific treatments or processing codes. Clinical coverage criteria or guidelines, including restrictions such as location of service and prohibitions on multiple services on the same day or at the same time, shall not be the sole determinant used by the department, its utilization vendors, or its care management organizations to limit the EPSDT standards or its medically necessary definition in this article. Any such restrictions shall be waived under the EPSDT Program or this article if the prescribed services are medically necessary.

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

(g) Nothing in this article shall be deemed to prohibit or restrict the department, its utilization review vendors, or its care management organizations from denying claims or

prosecuting or pursuing beneficiaries or providers who submit false or fraudulent prescriptions, forms required to implement this article, or claims for services or whose eligibility as a beneficiary or a participating provider has been based on intentionally false information."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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