

3-1-2000

## INSURANCE Essential Rural Health Care Provider Access: Remove Exemption for Health Maintenance Organizations

Laurie Jablow

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### Recommended Citation

Laurie Jablow, *INSURANCE Essential Rural Health Care Provider Access: Remove Exemption for Health Maintenance Organizations*, 17 GA. ST. U. L. REV. (2000).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol17/iss1/28>

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## INSURANCE

### *Essential Rural Health Care Provider Access: Remove Exemption for Health Maintenance Organizations*

**CODE SECTIONS:** O.C.G.A. §§ 33-20B-3 (amended), -3.1  
(new)

**BILL NUMBER:** SB 334

**ACT NUMBER:** 644

**GEORGIA LAWS:** 2000 Ga. Laws 439

**SUMMARY:** The Act amends the Essential Rural Health Care Provider Access Act of 1998. The original Act was designed to enable rural health care providers to join health care benefit plans. The 1998 Act included certain requirements that a health care plan must satisfy in order to participate. However, the original Act exempted Health Maintenance Organizations (HMOs). As amended, the Act removes the exemption and requires HMOs to satisfy the same criteria as other health care plans. The Act also adds a new Code section that allows the Human Resources Commissioner to evaluate whether an HMO has shown its willingness to use reasonable considerations throughout the negotiation and contracting process.

**EFFECTIVE DATE:** July 1, 2000

#### *History*

Senators Eddie Madden, Jack Hill, George Hooks, and Rooney Bowen of the 47th, 4th, 14th, and 13th Senate Districts, respectively, introduced SB 334 on January 24, 2000.<sup>1</sup> The

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1. See SB 334, as introduced, 2000 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

Georgia Hospital Association had drafted the legislation in response to the presence of Health Maintenance Organizations (HMOs) in rural markets.<sup>2</sup> HMOs did not lobby to defeat the bill.<sup>3</sup> In fact, HMOs participated both in drafting the original legislation in 1998 and in drafting this bill to amend the 1998 Act.<sup>4</sup>

SB 334 was introduced to require HMOs to adhere to the provisions of the Rural Health Care Provider Access Act.<sup>5</sup> Originally, HMOs were exempt from the Rural Health Care Provider Access Act because they were not a major part of the health care insurance marketplace.<sup>6</sup> Today, however, HMOs constitute a stronger presence in the market.<sup>7</sup> As a result, the Georgia Hospital Association drafted SB 334 to remove the HMO exemption.<sup>8</sup> The new Code section subjects HMOs to the same criteria as other health plans.<sup>9</sup> The removal of the HMO exemption should result in increased access to health care in rural areas.<sup>10</sup>

### *SB 334*

#### *Consideration in the Senate*

Upon introduction, SB 334 was assigned to the Senate Insurance and Labor Committee.<sup>11</sup> The Committee favorably

2. See Telephone Interview with Holly Snow, Lobbyist for Georgia Hospital Association (May 17, 2000) [hereinafter Snow Interview].

3. See Audio Recording of Senate Proceedings, Feb. 4, 2000 (remarks by Sen. Eddie Madden) <<http://www.ganet.org/services/leg/audio/2000archive.html>> [hereinafter Senate Audio]; Snow Interview, *supra* note 2.

4. See Senate Audio, *supra* note 3.

5. See *id.*

6. See *id.*

7. See *id.*; Telephone Interview with Sen. Eddie Madden, Senate District No. 47 (Apr. 28, 2000) [hereinafter Madden Interview].

8. See Snow Interview, *supra* note 2.

9. Compare 1998 Ga. Laws 900, § 2, at 901 (formerly found at O.C.G.A. § 33-20B-3(d) (Supp. 1999)), with O.C.G.A. § 33-20B-3 (2000).

10. See Snow Interview, *supra* note 2; see also Madden Interview, *supra* note 7. Representative Austin Scott does not believe, however, that this bill will result in increased access because he believes PPOs are more prevalent than HMOs. See Telephone Interview with Rep. Austin Scott, House District No. 165 (May 8, 2000) [hereinafter Scott Interview]. According to Representative Scott, if PPOs are not covered by the bill, more people in rural areas will be denied care. See *id.*

11. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

reported the bill, without changes, on February 2, 2000.<sup>12</sup> The Senate passed the bill, as introduced, by unanimous vote on February 4, 2000.<sup>13</sup>

### *Consideration in the House*

The bill moved to the House on February 7, 2000, and was assigned to the Health & Ecology Committee.<sup>14</sup> The Health & Ecology Committee favorably reported the bill without any changes.<sup>15</sup> However, on the House floor, Representative Austin Scott of the 165th House District requested a floor amendment to add the language “or participating provider organization” after the word “plan” in part (a), line 16.<sup>16</sup> According to Representative Scott, Preferred Provider Organizations (PPOs) are more of an issue in the rural areas.<sup>17</sup> Representative Scott sought to guarantee PPOs the same access in the rural market as the HMOs would receive under the Act.<sup>18</sup> Representative Scott feared that without inclusion of the floor amendment, patients in rural areas would be denied access to health care or would be forced to travel long distances to regional facilities that accept their PPOs.<sup>19</sup> This could deny patients access to

12. *See id.*

13. *See* Georgia Senate Voting Record, SB 334 (Feb. 4, 2000).

14. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

15. *See id.*

16. *Compare* SB 334, as introduced, 2000 Ga. Gen. Assem., with SB 334 (HFA), 2000 Ga. Gen. Assem. *See* Audio Recording of House Proceedings, Mar. 15, 2000 (remarks by Rep. Austin Scott) <<http://www.ganet.org/services/leg/audio/2000archive>> [hereinafter House Audio]. The Scott floor amendment was adopted in the House and rejected in the Senate. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

17. *See* House Audio, *supra* note 16; Scott Interview, *supra* note 10. Representative Scott believed that the bill as originally drafted would give regional hospitals control over rural facilities by enabling regional hospitals to control access to PPO contracts. *See* Scott Interview, *supra* note 10. Representative Scott's district is in rural south Georgia, where many of his constituents only have access to rural hospitals. *See id.* When these hospitals are denied access to PPOs, the patients must travel to the nearest regional hospital. *See id.* The regional hospitals control access to PPO contracts and are excluding the rural hospitals from access. *See id.* Representative Scott hoped his floor amendment would require regional hospitals to negotiate in good faith so that the rural facilities could access PPO contracts. *See id.* However, those who opposed Representative Scott's amendment argued that PPOs were already included in the bill. *See* Snow Interview, *supra* note 2.

18. *See* Scott Interview, *supra* note 10; House Audio, *supra* note 16.

19. *See* Scott Interview, *supra* note 10.

emergency medical care.<sup>20</sup> To combat this problem, Representative Scott requested the floor amendment, which the House approved by a small margin.<sup>21</sup> The bill returned to the Senate for reconsideration.<sup>22</sup>

### *Senate Reconsideration*

Lobbyists, such as the Georgia Hospital Association, opposed the floor amendment.<sup>23</sup> According to Senator Madden, the Senate rejected the House version because it would have extended the bill's application and would have been too far-reaching.<sup>24</sup> The House floor amendment would exceed the bill's original intent.<sup>25</sup> In his opinion, the bill as originally drafted addressed PPOs, making the amendment redundant.<sup>26</sup> Therefore, the Senate rejected the amended version of the bill.<sup>27</sup> Ultimately, the House receded from its position.<sup>28</sup>

### *The Act*

The Act amends Code section 33-20B-3 by removing subsection (d), the exemption for Health Maintenance Organizations.<sup>29</sup> The former Code section exempted an HMO from the criteria as long as the Department of Human Resources Commissioner approved the plan's participation.<sup>30</sup> In

20. *See id.*

21. *See* House Audio, *supra* note 16 (vote on amendment). The vote was 76 to 69 to adopt the floor amendment. *See id.*; *see also* Georgia House Representative Voting Record (Mar. 15, 2000).

22. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

23. *See* Scott Interview, *supra* note 10; Snow Interview, *supra* note 2.

24. *See* Madden Interview, *supra* note 7.

25. *See id.*; Snow Interview, *supra* note 2.

26. *See* Madden Interview, *supra* note 7; *see also* Snow Interview, *supra* note 2.

27. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000. *Compare* SB 334 (HFA), 2000 Ga. Gen. Assem., *with* SB 334, as passed, 2000 Ga. Gen. Assem.

28. *Compare* SB 334 (HFA), 2000 Ga. Gen. Assem., *with* SB 334, as passed, 2000 Ga. Gen. Assem. According to Holly Snow, the amendment was a surprise, and no one was aware of what it tried to address. *See* Snow Interview, *supra* note 2. Once the House members realized that PPOs were covered by the existing language and the amendment did not address any new issue, they retreated from supporting the floor amendment. *See id.*

29. *Compare* 1998 Ga. Laws 900, § 2, at 903 (formerly found at O.C.G.A. § 33-20B-3(d) (Supp. 1999)), *with* O.C.G.A. § 33-20B-3 (2000).

30. *Compare* 1998 Ga. Laws 900, § 2, at 903 (formerly found at O.C.G.A. § 33-20B-3(d) (Supp. 1999)), *with* O.C.G.A. § 33-20B-3 (2000).

determining whether to approve a plan's participation, the Commissioner would review the HMO's past participation and willingness to be fair and reasonable in negotiating and contracting with rural providers.<sup>31</sup> Under the amended Code, HMOs are subject to the same criteria for health care plans as other providers.<sup>32</sup> These criteria include participation in Medicare and Medicaid programs, provisions for charity and indigent care, proper licensing, agreement to certain payment terms, and provision of reasonable numbers of physicians in rural areas.<sup>33</sup> However, the requirement that the Commissioner review the plan's history in negotiating and contracting with rural providers has not been eliminated; rather, the Act creates a new Code section to encompass this requirement.<sup>34</sup> Thus, an HMO's negotiating and contracting policies will still be subject to review before the HMO may enter as a provider in rural areas.<sup>35</sup> The Insurance Commissioner is responsible for overseeing compliance with the Act.<sup>36</sup>

*Laurie Jablow*

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31. Compare 1998 Ga. Laws 900, § 2, at 903 (formerly found at O.C.G.A. § 33-20B-3(d) (Supp. 1999)), with O.C.G.A. § 33-20B-3 (2000).

32. Compare 1998 Ga. Laws 900, § 2, at 903 (formerly found at O.C.G.A. § 33-20B-3(d) (Supp. 1999)), with O.C.G.A. § 33-20B-3 (2000).

33. Compare 1998 Ga. Laws 900, § 2, at 903 (formerly found at O.C.G.A. § 33-20B-3 (Supp. 1999)), with O.C.G.A. § 33-20B-3 (2000).

34. See O.C.G.A. § 33-20B-3.1 (2000).

35. See *id.*

36. See *id.* § 33-20B-3(b).