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HEALTH

Healthcare for Children: Provide for a Health Insurance Program for Children Who Are Not Eligible for Medicaid Coverage

CODE SECTIONS: O.C.G.A. §§ 49-5-270 to -273 (new)
 BILL NUMBER: SB 410
 ACT NUMBER: 798
 GEORGIA LAWS: 1998 Ga. Laws 623
 SUMMARY: The Act establishes the "PeachCare for Kids Program," which provides health insurance coverage for children up to eighteen years of age. The Act states that PeachCare for Kids will be administered by the Georgia Department of Medical Assistance (DMA), and that the PeachCare program shall closely resemble the Medicaid Program, which is also administered by the DMA.
 EFFECTIVE DATE: April 6, 1998¹

History

In 1996, nearly 300,000 children under the age of eighteen were uninsured in Georgia.² Based on this statistic, children represented more than twenty-three percent of all uninsured Georgians.³ Overall, twenty percent of non-elderly Georgians did not have health insurance in 1996.⁴ Of the eighty percent of non-elderly Georgians with health insurance coverage, seventy-nine percent had employer-provided health insurance plans.⁵ For the most part, children under the age of eighteen had employer-provided health insurance coverage to a lesser

1. See 1998 Ga. Laws 623, § 2, at 626. The Act became effective upon approval by the Governor.

2. See William S. Custer & Patricia Ketsche, *Sources of Health Insurance Coverage in Georgia* 18, in GA. ST. UNIV. CENTER FOR RISK MGMT. & INS. RES., RES. REP. SERIES No. 98-1 (Jan. 1998).

3. See *id.* at 17.

4. See *id.* at 1.

5. See *id.* at 6.

extent than adults;⁶ however, children were more likely to be covered by a public health insurance plan, such as Medicaid, than were adults.⁷

The Georgia Department of Medical Assistance (DMA) administers the Medicaid program, a public health insurance program that provides coverage to approximately 700,000 children.⁸ Family size and income are used in ratios as criteria for Medicaid eligibility for children.⁹ Children are eligible for Medicaid if their family income is below the federal poverty level established for their family size.¹⁰ The age of children also affects their eligibility for Medicaid coverage.¹¹ In general, younger children require less family income to qualify for Medicaid than do older children.¹² Children from birth to one year old may have a family income that is 185% above the federal poverty level for Medicaid eligibility.¹³ Children ages one to five may have family incomes that are 133% above the federal poverty level, whereas children six to eighteen years of age cannot exceed a family income of 100% of the federal poverty level for Medicaid eligibility.¹⁴ Many

6. *See id.* at 17.

7. *See id.*

8. *See* James Salzer, *House Committee OKs \$12.5 Billion State Budget for Next Fiscal Year*, SAVANNAH MORNING NEWS, Mar. 5, 1998, at 3C. Other public health insurance providers include Medicare and Champus. *See* Custer & Ketsche, *supra* note 2, at 1.

9. *See* Telephone Interview with Lucy Bigham, Georgia Merit System Child Health Insurance Program (CHIP) Director (May 18, 1998) [hereinafter Bigham Interview]. Persons who are disabled and receive Supplemental Security Income (SSI) benefits also receive Medicaid. *See id.*

10. *See id.*

11. *See id.*

12. *See id.*

13. *See* GEORGIA HOUSE OF REPRESENTATIVES RESEARCH OFFICE, PEACHCARE FOR KIDS FACT SHEET 4 (June 1997) [hereinafter FACT SHEET].

14. *See id.* The federal poverty levels are based on the size of the family unit. The 1997 federal poverty levels are as follows:

<u>Size of Family Unit</u>	<u>Annual Income</u>
1	\$7,890
2	\$10,610
3	\$13,330
4	\$16,050
5	\$18,770
6	\$21,490
7	\$24,210
8	\$26,930

Id. at 5. Based on these poverty levels, a newborn in a family of four may qualify for Medicaid with family income up to \$29,693 (\$16,060 multiplied by 1.85); a four-year-old in the same family will not qualify if family income exceeds \$21,347 (\$16,050 multiplied by 1.33); and a sixteen-year-old in that family will not qualify for Medicaid if family

children remain uninsured because their family income does not meet federal income eligibility requirements for Medicaid coverage and their families do not have private insurance.¹⁵ Approximately twenty to thirty percent of uninsured children may be eligible for Medicaid based on their family income levels, but are not enrolled in the program.¹⁶

In an effort to address the problem of uninsured children in Georgia, SB 410 was introduced and, after significant amendments, the Georgia General Assembly passed the bill and Governor Zell Miller signed it into law.¹⁷

SB 410

Senator Charles Walker of the 22nd District, Governor Miller's floor leader in the Senate, introduced SB 410 on January 13, 1998 on behalf of the Governor.¹⁸ The bill was assigned to the Senate Health and Human Services Committee and received a "do pass" vote on January 28, 1998.¹⁹ The bill passed the Senate without any changes on January 30, 1998, and was sent to the House.²⁰ In the House, the bill was first assigned to the State Institutions and Property Committee, but was recommitted to the House Appropriations Committee,²¹ where it was researched by the Medicaid Study Committee, chaired by Representative Mickey Channell.²² The bill underwent several revisions in the House before its passage.²³ The Act was the result of a significant amount of debate and compromise among bill sponsors, advocacy groups, and Governor Miller.²⁴

income exceeds \$16,050 (\$16,050 multiplied by 1.0). *See id.*

15. *See* Telephone Interview with Rep. Mickey Channell, House District No. 111 (Apr. 30, 1998) [hereinafter Channell Interview]; *Georgia's Challenge—Providing for Our Uninsured and Underinsured Children*, 4 FISCAL FACTS (Georgians for Children, Atlanta, Ga.), June 1997, at 1 [hereinafter *Georgia's Challenge*].

16. *See Georgia's Challenge*, *supra* note 15, at 1.

17. *See* 1998 Ga. Laws 623; Georgia Bill Tracking, 1997 Ga. SB 410.

18. *See* Lawrence Viele, *Kids' Health Care Bolstered*, JACKSONVILLE TIMES-UNION, Jan. 31, 1998, at A11.

19. *See* Georgia Bill Tracking for SB 410, Jan. 28, 1998, available in LEXIS, States Library, GA TRCK file.

20. *See id.*

21. *See id.*

22. *See* Channell Interview, *supra* note 15.

23. *Compare* SB 410, as introduced, 1998 Ga. Gen. Assem., with SB 410 (HCS), 1998 Ga. Gen. Assem., and SB 410 (HFS), 1998 Ga. Gen. Assem.

24. *See* Telephone Interview with Laurie Iscaro, Georgians for Children (Apr. 29, 1998) [hereinafter Iscaro Interview]; Channell Interview, *supra* note 15.

Basic Provisions of the Act

Although SB 410 underwent numerous changes before final passage, the basic goal of the program remained unchanged.²⁵ The Act provides health insurance coverage for uninsured children who are not eligible for Medicaid coverage, who are eighteen years of age or less, and who have a family income that is not above 200% of the federal poverty level.²⁶ The Act creates a program that “shall offer substantially the same health care services available to children under Georgia's Medicaid plan,”²⁷ making it a “Medicaid look-alike” program.²⁸ However, the program specifically excludes non-emergency transportation and targeted case management services.²⁹ The program is funded through a combination of state and federal matching funds.³⁰

Name Change

SB 410, as introduced by Senator Walker, was called the “Children's Health Insurance Act,” and it created a program called the “Children's Health Insurance Program” (CHIP).³¹ After passing the Senate, the House Appropriations Committee changed the program's name to PeachCare for Kids.³² Advocates of SB 410 proposed changing the program's name to one that exuded caring, that was “catchy,” and that people could remember.³³ Consequently, the Act and the program it creates are known as PeachCare for Kids.³⁴

25. Compare SB 410, as introduced, 1998 Ga. Gen. Assem., with O.C.G.A. § 49-5-271 (1998).

26. See O.C.G.A. § 49-5-273 (1998).

27. *Id.* § 44-5-273(c).

28. Bigham Interview, *supra* note 9; Iscaro Interview, *supra* note 24; see O.C.G.A. § 49-5-273 (1998).

29. See O.C.G.A. § 49-5-273(c) (1998).

30. See Record of Proceedings in the House of Representatives (Mar. 18, 1998) (remarks by Sen. Charles Walker) (available in Georgia State University College of Law Library); Channell Interview, *supra* note 15. The State will provide matching funds of approximately 27%; the federal government will provide 73% of the funds. See FACT SHEET, *supra* note 13, at 4.

31. See SB 410, as introduced, 1998 Ga. Gen. Assem.

32. See SB 410 (HCS), 1998 Ga. Gen. Assem.

33. Iscaro Interview, *supra* note 24.

34. See *id.*

Administrative Responsibility for the Program

The original version of SB 410 also provided for its administration by the State Merit System of Personnel Administration.³⁵ Under SB 410, as introduced, the State Merit System would contract with private healthcare providers to provide healthcare to children.³⁶ There was significant opposition to assigning administrative responsibility for the program to the State Merit System as opposed to the DMA.³⁷ Opponents claimed that this scheme would result in inefficient administration of the program for several reasons: (1) the State Merit System would have to create an administrative structure to operate the program, whereas the DMA could use the administrative structure already in place for Medicaid;³⁸ consequently, the program would cost more to administer, and fewer would be served through the State Merit System than through the DMA;³⁹ and (2) children within the same family could be forced to have different healthcare providers, one through Medicaid and one through PeachCare.⁴⁰ Therefore, the House Appropriations Committee's substitute bill eliminated the State Merit System as the program administrator and substituted the DMA, the same state agency responsible for administering the Medicaid program under Title XIX of the federal Social Security Act.⁴¹ Under the Act, the DMA is responsible for administering PeachCare and for certifying the eligibility of children for coverage.⁴² In addition, the Act requires the DMA to provide outreach services aimed at enrolling children.⁴³

Representative Channell stated that one of the biggest concerns with creating a private health insurance program through the State Merit System was that private insurance would not cover special needs children, such as children with asthma or illnesses requiring ongoing treatment; however, the PeachCare program, as a Medicaid look-alike, will provide such coverage.⁴⁴ Dr. Stephanie L. Pearson,

35. See SB 410, as introduced, 1998 Ga. Gen. Assem.

36. See Channell Interview, *supra* note 15.

37. See *id.*; Andy Miller, *Children's Health Care Plans Debated in House*, ATLANTA J. & CONST., Mar. 12, 1998, at C4; Iscaro Interview, *supra* note 24.

38. See Iscaro Interview, *supra* note 24.

39. See Miller, *supra* note 37.

40. See Bigham Interview, *supra* note 9; Miller, *supra* note 37.

41. See SB 410 (HCS), 1998 Ga. Gen. Assem.

42. See O.C.G.A. § 49-5-273 (1998).

43. See *id.*

44. See Channell Interview, *supra* note 15.

Director of Child and Adolescent Services for the DeKalb Community Service Board, a public behavioral healthcare provider, stated that many of the children they serve require services that private health insurance does not fully cover.⁴⁵ For example, although both Medicaid and private insurance cover outpatient therapy, private insurance typically does not pay for other high-level services such as day treatment services, therapeutic foster care, respite services, and in-home crisis intervention.⁴⁶ Dr. Pearson's concern was that the new program, if administered by the State Merit System, would not have covered these services.⁴⁷ Now that the program is essentially a Medicaid look-alike program, these services will be covered.⁴⁸

Premiums and Copayments

SB 410, as introduced, contained language that provided for the payment of premiums by program participants, but the language was permissive, not mandatory.⁴⁹ The House Committee substitute eliminated the premium provision but added a provision permitting copayments.⁵⁰ As a result of compromises between Governor Miller and bill sponsors and advocates, the premium provision was reinstated in the House floor substitute using mandatory language.⁵¹ Thus, the Act requires premium payments for children ages six and over and prohibits premium charges for children under six years of age.⁵² Further, the Act permits copayment charges for children ages six and over, but prohibits charging copayments for preventive services, which includes, among other things, "medically necessary maintenance medication and monitoring for chronic conditions such as asthma and diabetes."⁵³ DMA plans to implement a premium charge

45. See Telephone Interview with Stephanie L. Pearson, Ph.D, DeKalb Community Service Board (June 4, 1998).

46. See *id.*

47. See *id.*

48. See *id.*

49. See SB 410, as introduced, 1998 Ga. Gen. Assem. SB 410, as introduced, states in pertinent part that "[t]he State Personnel Board is authorized to establish [the program] using . . . premium payments that may be collected from program participants . . . provided that the premiums . . . shall be paid by the program's participants." *Id.*

50. See SB 410 (HCS), 1998 Ga. Gen. Assem.

51. See Channell Interview, *supra* note 15. Compare SB 410 (HCS), 1998 Ga. Gen. Assem., with SB 410 (HFS), 1998 Ga. Gen. Assem.

52. See O.C.G.A. § 49-5-273(d)-(e) (1998).

53. *Id.* § 49-5-273(d).

of \$7.50 or less per child per month.⁵⁴ Although the Act permits copayment charges for children over six years of age, DMA does not plan to require any program participant to make copayments.⁵⁵

No Entitlement to the Program

In general, an entitlement program requires program benefits or coverage to be provided to anyone who meets the program's eligibility criteria, regardless of funding availability.⁵⁶ The Act makes clear, however, that PeachCare is not an entitlement program and benefits will only be provided subject to the availability of funding.⁵⁷ SB 410, as introduced, contained no language regarding program entitlement.⁵⁸ The House Committee substitute added a subsection that stated, in part, that: “[n]o entitlement to benefits for the children covered under the program or this article shall be created by the program. The program shall be established subject to the availability of funds.”⁵⁹ Nevertheless, Governor Miller strongly criticized the House Committee substitute as fiscally irresponsible, calling it a “huge new entitlement program,” adding that such programs “are impossible to control and the costs skyrocket over time.”⁶⁰ However, Governor Miller’s criticism was unfounded because the language in the House Committee substitute clearly stated that the program did not create an entitlement.⁶¹ The Act includes the no entitlement language added by the House Committee substitute.⁶²

Joint Oversight Committee

The House Committee substitute also provided for the creation of a “PeachCare for Kids Joint Oversight Committee,” which would be responsible for studying and making recommendations for the program.⁶³ The Joint Oversight Committee was ultimately eliminated

54. See PeachCare for Kids Kickoff Press Conference, State of Georgia Department of Medical Assistance, July 13, 1998.

55. See *id.*

56. See Channell Interview, *supra* note 15.

57. See O.C.G.A. § 49-5-273(b) (1998).

58. See SB 410, as introduced, 1998 Ga. Gen. Assem.

59. SB 410 (HCS), 1998 Ga. Gen. Assem.

60. *Lawmakers Draw Ire of Gov. Miller*, BRUNSWICK NEWS, Mar. 5, 1998, at 5A.

61. See SB 410 (HCS), 1998 Ga. Gen. Assem.; Channell Interview, *supra* note 15.

62. Compare O.C.G.A. § 49-5-273 (1998), with SB 410 (HCS), 1998 Ga. Gen. Assem.

63. See SB 410 (HCS), 1998 Ga. Gen. Assem. The bill, as introduced, included a provision requiring the State Merit System to publish an annual report to the Governor

and was replaced with a provision requiring the DMA to provide annual reports to the Governor and the General Assembly.⁶⁴ Representative Channell stated that Governor Miller strongly believed that the Committee was unnecessary.⁶⁵ Thus, the elimination of the Committee from the Act was one compromise lawmakers made to secure passage of SB 410.⁶⁶

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and the General Assembly. *See* SB 410, as introduced, 1998 Ga. Gen. Assem.

64. *See* O.C.G.A. § 49-5-273(j) (1998).

65. *See* Channell Interview, *supra* note 15.

66. *See id.*