

Georgia General Assembly Gears Up for 2009 Session

As we eagerly enter 2009 with resolutions hoping to fix the past year's misgivings and improve upon our successes, it is with the same eagerness that we recap the Georgia Legislature's 2008 session and outline where the General Assembly may head us this year. The Legislature is expected to discuss much-anticipated topics this session, include Medicaid budgets, funding increases for behavioral health and trauma care, revisions to Georgia's PeachCare Kids, Georgia's version of the federal State Children's Health Insurance Program ("SCHIP"), indigent care, licensure issues, and consent options for incapacitated adults.

In 2008, Georgia's most significant healthcare reforms included a complete overhaul of the State's Certificate of Need Program ("CON"), as well as significant changes to laws related to Care Management Organizations ("CMOs"), the managed care plans through which Georgia's Medicaid enrollees receive benefits. Although funding for trauma care was a hot-button issue in 2008, the legislature did not ultimately approve a trauma care funding system.

Certificate of Need

Senate Bill 433, which the General Assembly passed at the tail end of the legislative session and became effective July 1,



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2008, contained the most significant of all healthcare reforms in 2008.

The inclusion of general surgery and physiatrists in the CON exception for single-specialty ambulatory surgery centers was a much anticipated aspect of Senate Bill 433. The bill also increased the expenditure threshold of CON-exempt, single-specialty ambulatory surgery centers from \$1.7 million to \$2.5 million (indexed for inflation). Also exempt from CON requirements are joint venture ambulatory surgery centers, which are owned jointly by hospitals and physicians.

Other exceptions include diagnostic and therapeutic cardiac catheterizations, as well as equipment expenditures under \$1,000,000. New freestanding imaging centers, however, are required to obtain a CON to purchase diagnostic equipment regardless of cost. CON requirements have been reduced for both perinatal services and for destination cancer hospitals located within twenty-five (25) miles of the Atlanta airport.

Senate Bill 433 also increased the capital expenditure threshold for health care facilities to \$2.5 million (and will be adjusted for inflation).

Care Management Organizations

In the late hours on the final day of the legislative session, the Georgia General Assembly also passed House Bill 1234, the

"Medicaid Care Management Organizations Act." The bill clarifies that a CMO is required to obtain a certificate of authority as a health maintenance organization ("HMO") and is subject to laws relating to HMOs. Each CMO must program review its automated claims payment systems and pay out-of-network providers the same amount paid by the Georgia Department of Community Health under fee-for-service Medicaid for emergency health care services and post-stabilization services.

The bill also requires that each CMO pay interest, in the amount of twenty percent (20%) per annum, for all claims that are initially denied or underpaid but eventually determined to have been owed by the CMO.

Trauma

Although the General Assembly paid significant attention during the legislative session to Georgia's underfunded and overburdened trauma-care network, it failed to pass a bill to address the need for a sustainable funding mechanism related to trauma care. This issue will likely take a lead role once again in the 2009 Legislative Session.

Upcoming Issues for 2009

Because of the budget crunch across the State, government funding for Medicaid and Georgia's PeachCare for Kids will be key issues in 2009. Although the budget will likely consume the General Assembly's time during the majority of the 2009 session, other issues which may arise in 2009 include tort liability expansion, workforce shortages, and behavioral

health in Georgia. Hospital emergency departments across Georgia are experiencing increases in the number of patients seeking care for acute psychiatric episodes. Funding for Georgia's behavioral health may be a hot-button issue in 2009. Hospitals are also experiencing a worsening workforce shortage, which the legislature will hopefully address with funding and increased non-traditional programs for healthcare providers, such as nursing and allied health programs.

The expansion of existing legislation on standing orders for vaccinations could also be discussed during the 2009 legislative session. Additionally, establishing a licensure category for surgical assistants, which is supported by the Composite State Board of Medical Examiners but faces opposition from the Georgia Occupational Regulation Review Council and many nonprofit organizations, could also be a hot-button topic this year. Delays in physician credentialing and enrollment process, along with consent options for incapacitate adults needing healthcare services, might also be items looming on the horizon for the 2009 legislative session.

All in all, the Georgia Legislature is likely to make 2009 another year in which reform of the healthcare industry tops the Legislature's list of New Year's resolutions.

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