

HOUSE BILL 226¹: SOCIAL SERVICES; TREATMENT SERVICES UNDER
MEDICAID TO PERSONS WITH HIV; PROVISIONS

Amending O.C.G.A. § 49-4-142

First signature: Representative Sharon Cooper (45th)

Co-Sponsors: Representative Darlene Taylor (173rd), Representative Katie Dempsey (13th), Representative Mark Newton (127th), Representative Teri Anulewicz (42nd), Representative Solomon Adesanya (43rd).

Summary: “A BILL to be entitled an Act to amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, so as to require the Department of Community Health to submit a Section 1115 waiver request to the federal Centers for Medicare and Medicaid Services for a demonstration project to provide treatment services under Medicaid to persons in this state living with HIV; to provide for implementation upon approval; to provide for related matters; to repeal conflicting laws; and for other purposes.”²

Status: House Withdrawn, Recommitted on March 29, 2023.³

TEXT OF HOUSE BILL 226⁴

To amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, so as to require the Department of Community Health to submit a Section 1115 waiver request to the federal Centers for Medicare and Medicaid Services for a demonstration project to provide treatment services under Medicaid to persons in this state living with HIV; to provide for implementation upon approval; to provide for related matters; to repeal conflicting laws; and for other purposes.

¹ H.B. 226 (Public Health Committee), 158th Gen. Assemb., 1st Reg. Sess. (Ga. 2023), available at <https://www.legis.ga.gov/legislation/63980> (last visited on Oct. 1, 2023).

² 2023-2024 Regular Session H.B. 226, *Social services; treatment services under Medicaid to persons with HIV; provisions*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/api/legislation/document/20232024/216520> (last visited on Oct. 1, 2023) [hereinafter H.B. 226 Status Sheet].

³ *Id.*

⁴ H.B. 226, *supra* note 2.

SECTION 1.

Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, is amended by adding a new Code section to read as follows:
49-4-142.6.

(a) On or before December 31, 2023, the department shall submit a waiver request to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services pursuant to Section 1115 of the federal Social Security Act to conduct a demonstration project to provide treatment services under Medicaid to persons in this state living with human immunodeficiency virus (HIV). Such demonstration project shall be designed to provide more effective, early treatment of HIV to persons in this state by making available a package of services, including antiretrovirals. The eligibility criteria for recipients shall include having a diagnosis of HIV, an income of less than 100 percent of the federal poverty level, and no health insurance.

(b) Upon approval of the waiver, the department shall take all necessary steps to implement the terms and conditions of the waiver."

SECTION 2.

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

SPONSOR'S RATIONALE

Representative Sharon Cooper sponsored this Bill to provide Medicaid coverage to low-income persons that are battling with Human Immunodeficiency Virus ("HIV"). She is the Chairman of the Public Health Committee.⁵ Representative Cooper has an extensive background in healthcare. She obtained her M.S. in nursing and worked as a medical administrator for her late husband's medical practice.⁶ Representative Cooper has a close connection in the fight for providing medical coverage to those

⁵ GA GEN. ASSEMB., REP. SHARON COOPER <https://www.house.ga.gov/representatives/en-US/Member.aspx?Member=86> (last visited Dec. 20, 2023).

⁶ GA GEN. ASSEMB., REP. SHARON COOPER BIOGRAPHY, <https://www.legis.ga.gov/api/document/docs/default-source/bios/cooper-sharon-86.pdf> (last visited Dec. 20, 2023).

with HIV.

Representative Cooper recalls the passing of her late friend in the 1980s.⁷ She described him as the funniest and kindest soul.⁸ When he returned from his trip to Guam, he suddenly became extremely ill.⁹ It seemed that no one could figure out what caused his ailment.¹⁰ This was until Representative Cooper recalled a book, she had recently read titled *And the Band Played On: Politics, People, and the AIDS Epidemic*.¹¹ She knew that her friend was gay; thus, she suggested he get tested for HIV.¹² Unfortunately, the test was positive.¹³ Not only did he have a life changing diagnosis during a time with little to no treatment, but he was also uninsured.¹⁴ Although he was able to get treatment, he developed AIDS and passed away two years after his diagnosis.¹⁵ Although the country has come a long way with treating HIV, too many people are unable to afford treatment, which increases the likelihood that they will transmit the virus to other people. This results in thousands of new HIV diagnoses yearly.¹⁶

Currently, Georgia provides Medicaid to minor children, pregnant women, and people receiving disability or retirement benefits.¹⁷ Furthermore, people that have developed acquired immunodeficiency syndrome (“AIDS”) are eligible for Medicaid services.¹⁸ If HIV is left untreated, it will typically develop into AIDS in about eight to ten years.¹⁹ AIDS is “late stage of HIV

⁷ Interview with Representative Sharon Cooper, GA State Representative (1996-Present), in Atlanta, Ga. (Sept. 4, 2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Rep. Cooper, *supra* note 7.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *New HIV Diagnoses and People with Diagnosed HIV in the US and Dependent Areas by Residence, 2021*, CENTERS FOR DISEASE CONTROL AND PREVENTION, (May 22, 2023), <https://www.cdc.gov/hiv/basics/statistics.html>.

¹⁷ GA MEDICAID, BASIC ELIGIBILITY, <https://medicaid.georgia.gov/how-apply/basic-eligibility>, (last visited Dec. 20, 2023).

¹⁸ Georgia House of Representatives, YouTube, (Feb. 14, 2023), https://www.youtube.com/watch?v=JOW3cp_Rs0M&t=1134s.

¹⁹ *HIV/AIDS*, MAYO CLINIC, (Jul. 29, 2022), <https://www.mayoclinic.org/diseases-conditions/hiv-aids/symptoms-causes/syc->

infection that occurs when the body's immune system is badly damaged because of the virus."²⁰ Once a person develops AIDS, they become more susceptible to opportunistic infections.²¹ If they develop a dangerous opportunistic infection and the person is not receiving HIV treatment, their life expectancy falls to about a year.²² Furthermore, if a person develops AIDS and is still not receiving treatment, their life expectancy is about three years.²³ With proper and consistent treatment, a person with HIV can live a long and healthy lives.²⁴

The cost to treat a person with AIDS is approximately \$30,000.²⁵ However, this does not include the cost of AIDS-related complications and hospitalizations. Representative Cooper stated this increases the cost to over \$100,000.²⁶ To treat a person with HIV, the cost is approximately \$10,000. Thus, Representative Cooper argues that this will save taxpayers money.²⁷ According to the Center for Diseases Control & Prevention ("CDC"), it is urgent for people with HIV to seek medical treatment as soon as possible.²⁸ With medication, "the amount of HIV in the body (viral load) [is reduced]." ²⁹ The medication can "even make the viral load so low that it can't detect it."³⁰ This is known as an undetectable viral load.³¹ Representative Cooper states that reaching undetectable viral levels are extremely important as this can help them lead normal lives. Furthermore, it would reduce the number of AIDS cases in the state.

According to Representative Cooper, this is the Bill's second time

20373524#:~:text=Untreated%2C%20HIV%20typically%20turns%20into,opportunistic%20infections%20or%20opportunistic%20cancers.

²⁰ *What are HIV and AIDS?*, Hiv.GOV, (Jan. 13, 2023), <https://www.hiv.gov/hiv-basics/overview/about-hiv-and-aids/what-are-hiv-and-aids/>.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Aging With HIV*, Hiv.gov, (Sept. 13, 2023), <https://www.hiv.gov/hiv-basics/living-well-with-hiv/taking-care-of-yourself/aging-with-hiv/>.

²⁵ *Supra* 7.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *HIV Treatment as Prevention*, CENTERS FOR DISEASE CONTROL AND PREVENTION, (Aug. 9, 2023), <https://www.cdc.gov/hiv/risk/art/index.html>.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

being introduced.³² It was introduced in the previous session and passed the House.³³ Once it was at Senate, Representative Cooper was informed that there was sufficient funding in the fiscal budget and would not require a law, so it was added to the budget and sent to Governor Kemp.³⁴ However, Governor Kemp stated a bill would need to be passed for Medicaid to expand in this manner, so he vetoed it.³⁵

During the Bill's initial attempt, Georgia Equality, Inc. investigated the implications Medicaid expansion could have on HIV treatment.³⁶ Currently, the federal government funds the Ryan White HIV/AIDS Program. This program funds grants to states to provide HIV medical care.³⁷ However, states will provide additional funds to the program. This is a "last resort" program, yet the number of clients served under this program continues to dramatically increase.³⁸ Georgia Equality estimates that over half of these clients would be eligible if Georgia fully expanded Medicaid.³⁹ If the Bill passes, approximately \$53.7 million of the Ryan White funding could be used to "address gaps in services."⁴⁰ Thus, with the Bill passing and Ryan White funds, people living with HIV would be able to receive extensive treatment.

OPPOSITION'S RATIONALE

Initially, the Bill was going to cover individuals that had an income of less than 138% of the federal poverty level.⁴¹ Under the federal guidelines, this would qualify an individual for Medicaid if the state has expanded it.⁴²

³² Rep. Cooper, *supra* note 7.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Report: Expanding Medicaid in Georgia Could Free Up \$53 Million for HIV Treatment and Care*, GEORGIA EQUALITY, (Jan. 20, 2022), <https://georgiaequality.org/2022/01/report-expanding-medicaid-in-georgia-could-free-up-53-million-for-hiv-treatment-and-care/>.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ 2023-2024 Regular Session H.B. 226, GA. GEN. ASSEMB., <https://www.legis.ga.gov/api/legislation/document/20232024/213619> (last visited on Dec. 20, 2023).

⁴² HEALTH INSURANCE MARKETPLACE, FED. POVERTY LEVEL, <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/> (last visited Dec. 20, 2023).

However, Representative Cooper stated that her colleagues felt this was too broad and would overwhelm the Medicaid system; thus, it was reduced to 100%.⁴³ Currently, the federal poverty level for a single person is \$14,580.⁴⁴ This means that a single person can make up to \$14,580 before they become ineligible for Medicaid.

Although there is no clear and published opposition to the Bill, there are several legislators and organizations that have continuously spoken out about Medicaid expansion. The Georgia Center for Opportunity, an organization dedicated to researching and analyzing policies, has spoken out against Medicaid expansion. They argue that Medicaid traps people into the welfare system, is too expensive to expand, and has the worst healthcare outcomes.⁴⁵ They argue that a person will be unwilling to increase their income in fear of losing their Medicaid.⁴⁶ Thus, this leaves them “stuck” in the welfare system.⁴⁷ Since the federal government is only covering 90% of the expansion, this leaves states having to spend more on Medicaid than they have previously.⁴⁸ In 2018, expansion states spent 95.2% more of their own funds towards Medicaid than they did in 2010; while non-expansion states only spent 81.5% more.⁴⁹ They argue that not only can Georgia not afford it, but the federal government cannot afford it either.⁵⁰ Finally, they cite a study that compared persons living in Oregon that receive Medicaid benefits versus those that are uninsured.⁵¹ The study concluded that those on Medicaid did not have better physical outcomes than those that were uninsured.⁵²

Furthermore, Georgia has partially expanded Medicaid. Under this partial expansion, the state created the Georgia Pathways to Coverage Program.⁵³ Under this program, an individual is qualified if they are a

⁴³ Rep. Cooper, *supra* note 7.

⁴⁴ *Supra* note 41.

⁴⁵ Erik Randolph, *Three Reasons Why Medicaid Expansion is Bad for Georgia*, GEORGIA CENTER FOR OPPORTUNITY, (Mar. 19, 2022), <https://foropportunity.org/three-reasons-why-medicaid-expansion-is-bad-for-georgia/>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Randolph, *supra* note 45.

⁵¹ *Id.*

⁵² *Id.*

⁵³ GA. DEP'T OF CMTY. HEALTH, GA. PATHWAYS TO COVERAGE, <https://dch.georgia.gov/gegiapathways> (last visited Dec. 20, 2023).

Georgia resident, legal U.S. resident, between ages 19 and 64, have a household income of up to 100% of the Federal Poverty Level, and prove that they are doing at least 80 hours of “qualifying activities” per month.⁵⁴ The qualifying activities include full-time or part-time employment, community service, higher education, etc.⁵⁵ The program began July 1st, 2023 and was anticipated to cover 370,000 people.⁵⁶ Thus, this could be an alternative for individuals with HIV as long as they meet the requirements. According to the Atlanta Journal Constitution, less than 2,000 people have enrolled as of early October.⁵⁷ However, the Georgia Budget and Policy Institute’s Director of Health Justice Leah Chan issued a statement stating that “the low numbers do not match the large-scale investment made thus far.”⁵⁸

Finally, there are some representatives that oppose the Bill because it will promote sexual promiscuity. This is shown through Georgia’s deep rooted conservative values. Georgia schools are required to teach their students about sex education; however, abstinence is emphasized.⁵⁹ Furthermore, there is no requirement regarding the comprehension or medical accuracy of these classes.⁶⁰ Parents also have the option to remove their children from the class.⁶¹ Thus, it is no surprise that the Bill could have opposition due to continued traditional beliefs throughout the state government.

IMPLICATIONS IN GEORGIA

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Ariel Hart, *Georgia’s Plan to Expand Medicaid Enrolls Fewer than 2,000 So Far*, THE ATLANTA J. CONST., (Oct. 20, 2023), <https://www.ajc.com/news/health-news/georgias-plan-to-expand-medicaid-enrolls-fewer-than-2000-so-far/75Y4FPWLXBAWPCWL2GXKMJHPPEM/>

⁵⁷ *Id.*

⁵⁸ Lauren Frazier, *Press Release: Georgia’s Pathways to Coverage Program Falls Short of Enrollment Projections*, GEORGIA POLICY AND BUDGE INSTITUTE, (Oct. 20, 2023), <https://gbpi.org/press-release-georgias-pathways-to-coverage-program-falls-short-of-enrollment-projections/>.

⁵⁹ *State Education Policies and Requirements at a Glance*, SEX EDUCATION COLLABORATIVE, <https://sexeducationcollaborative.org/states/georgia>.

⁶⁰ *Id.*

⁶¹ *Id.*

Medicaid is the “largest source of insurance coverage...for adults with HIV.”⁶² The Bill would provide healthcare to people with an HIV diagnosis. It will be cheaper for taxpayers to treat persons with HIV than those with AIDS. Currently, the southern United States has the nation’s highest number of new HIV diagnoses.⁶³ Specifically, as of December 2022, Georgia led the nation in new HIV cases.⁶⁴

There are about 60,000 people in Georgia living with HIV.⁶⁵ However, approximately 15% of those lack health insurance.⁶⁶ According to Adam Searing and Dr. Adaora A. Adimora, states that have implemented Medicaid expansion have significantly reduced the number of uninsured persons with HIV.⁶⁷ In states that have not expanded it, their rate is 19% of uninsured rate compared to the 5% in states that have.⁶⁸

Recently, North Carolina passed a law expanding Medicaid.⁶⁹ It is estimated that 18% of uninsured North Carolina residents are “living with or vulnerable to HIV.”⁷⁰ Through this expansion, eligible residents will be able

⁶² Lindsey Dawson ET AL., *Medicaid and People with HIV*, KFF, (Mar. 27, 2023), <https://kff.org/hiv/aids/issue-brief/medicaid-and-people-with-hiv/#:~:text=The%20expansion%20of%20the%20program,disability%2C%20compared%20to%20enrollees%20overall>.

⁶³ *HIV in the Southern United States*, CENTERS FOR DISEASE CONTROL AND PREVENTION, (Sept. 2019), <https://www.cdc.gov/hiv/pdf/policies/cdc-hiv-in-the-south-issue-brief.pdf>.

⁶⁴ Ellen Eldridge, *On World AIDS Day, Georgia Leads the Nation in New HIV Cases 0 and Atlanta is a Hot Spot*, GBP NEWS, <https://www.gpb.org/news/2022/12/01/on-world-aids-day-georgia-leads-the-nation-in-new-hiv-cases-and-atlanta-hot-spot>.

⁶⁵ *Local Data: Georgia*, AIDS VU, <https://aidsvu.org/local-data/united-states/south/georgia/#:~:text=In%202021%2C%20there%20were%2059%2C422,were%20newly%20diagnosed%20with%20HIV>.

⁶⁶ *Id.*

⁶⁷ Adam Searing & Adaora A. Adimora, *HIV and Medicaid Expansion: Failure of Southern States to Expand Medicaid Makes Elimination of HIV Infection in the United States Much Harder to Achieve*, GEORGETOWN UNIVERSITY HEALTH POLICY INSTITUTE CENTER FOR CHILDREN AND FAMILIES, (Nov. 2020), https://ccf.georgetown.edu/wp-content/uploads/2021/01/HIV-and-Medicaid_map-fix_01-21-1.pdf.

⁶⁸ *Id.*

⁶⁹ Joy Avery, *Medicaid Expansion Update on HIV Copay Requirements*, NORTH CAROLINA MEDICAL SOCIETY, (Oct. 26, 2023), <https://ncmedsoc.org/medicaid-expansion-update-on-hiv-copay-requirements/#:~:text=Effective%20November%201%2C%202023%2C%20in,load%20in%20patients%20with%20HIV>.

⁷⁰ Marilyn D. Francis, *North Carolina Expansion Shows Bipartisanship Possible*, AIDS UNITED, (Mar. 29, 2023), <https://aidsunited.org/north-carolina-medicaid-expansion-shows->

to obtain preexposure prophylaxis (PrEP) which prevents HIV, or those with HIV will be able to get their treatment.⁷¹ Before the expansion went into effect on December 1st, NC Medicaid removed copays on all antiretroviral (ARV) medications beginning November 1st.⁷² According to the Center on Budget and Policy Priorities, the state “will receive an estimated \$1.63 billion in federal funding” due to its Medicaid expansion.⁷³

If the Bill does not pass, then Georgia will continue to miss out on billions in federal funding.⁷⁴ Further, thousands will continue to go without adequate treatment. As mentioned previously, consistent treatment is vital for persons living with HIV. Although the Georgia Pathways Program has been offered as an alternative to Medicaid expansion, the federal government has only approved it through September 2025.⁷⁵ The program was approved under President Trump’s administration in 2020 and was set to begin in 2021.⁷⁶ However, once President Biden entered office, his administration believed the Pathways work requirements did not further the objectives of Medicaid and rescinded federal approval.⁷⁷ Although Georgia was successful in challenging the administration and beginning the program, it delayed it by two years. Thus, Governor Kemp has filed suit against the Centers for Medicare and Medicaid Services and related parties in President Biden’s administration to extend the program’s expiration date until 2028.⁷⁸ The suit is currently pending in the United States District Court for the Southern

bipartisanship-possible/.

⁷¹ *Id.*

⁷² Frazier, *supra* note 56.

⁷³ Breanna Sharer, *With North Carolina Adopting Medicaid Expansion, a Dwindling Number of States Are Missing Out on its Economic and Health Benefits*, CENTER ON BUDGET AND POLICY PRIORITIES, (Sept. 27, 2023), <https://www.cbpp.org/research/health/with-north-carolina-adopting-medicaid-expansion-a-dwindling-number-of-states-are>.

⁷⁴ *Close Georgia’s Coverage Gap*, GEORGIA FOR A HEALTHY FUTURE, https://s11863.pcdn.co/wp-content/uploads/2015/09/LGBT_Medicaid_2015_Final.pdf.

⁷⁵ *Georgia Sues Biden Administration to Extend Medicaid Program with Work Requirement*, THE ASSOCIATED PRESS, (Feb. 2, 2024), <https://apnews.com/article/georgia-medicaid-work-requirement-2c55bea028e71fa531a63f80896452af>.

⁷⁶ *Georgia Sues Feds to Get 3-Yr Extension of Failed “GA Pathways” Program*, ACA SIGN UPS, (Feb. 12, 2025), <https://acasignups.net/24/02/12/georgia-sues-feds-get-3-yr-extension-failed-ga-pathways-program>.

⁷⁷ *Gov. Kemp Announces Lawsuit Against CMS to Reclaim Implementation Time of Georgia Pathways*, GOVERNOR BRIAN P. KEMP OFFICE OF THE GOVERNOR, (Feb. 2, 2024), <https://gov.georgia.gov/press-releases/2022-01-21/kemp-carr-file-suit-against-biden-administration-uphold-georgia-pathways>.

⁷⁸ *Id.*

District of Georgia Brunswick Division.⁷⁹ Therefore, it is possible that the Georgia Pathways Program may not be an existing alternative for Georgians with HIV for long.

Although the Bill will not fully expand Medicaid like North Carolina did, it will expand it for those with HIV. Thus, it will be a big step towards ending the HIV epidemic. North Carolina, among 40 other states, are leading the country by expanding Medicaid and ultimately providing healthcare to millions of Americans living with HIV. Furthermore, with Georgia Pathways potentially expiring soon, it makes it especially important to expand Medicaid to cover Georgians living with HIV.

LEGISLATIVE GENEALOGY

House Bill 226 was introduced in the House Hopper on February 2, 2023.⁸⁰ House first readers was on February 6, 2023.⁸¹ House second readers was on February 7, 2023.⁸² The House committee favorably reported on February 15, 2023.⁸³ The House postponed on February 22, 2023.⁸⁴ The House withdrew from the Rules Calendar and recommitted to Rules recommitted on February 23, 2023.⁸⁵ The House withdrew from the general calendar and recommitted to Public Health by Rule on February 27, 2023.⁸⁶ The House committee favorably reported by substitute on March 1, 2023.⁸⁷ The House withdrew and recommitted again on March 29, 2023.⁸⁸

Prepared by: *Gloria Garcia*

⁷⁹ *Id.*

⁸⁰ H.B. 226 Status Sheet, *supra* note 2.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ H.B. 225 Status Sheet, *supra* note 2.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*