

GEORGIA

DISCLAIMER: The views, statistical analysis, findings, and opinions expressed herein are not necessarily those of the Office of Minority Health, the Office of Public Health and Science nor the Department of Health and Human Services. The National Health Law Program, Inc. (NHeLP), under contract #282-00-0026, reviewed and analyzed existing state policies related to collecting racial and ethnic data by managed care organizations and health insurers. The information in this draft report contains the findings of NHeLP and not that of the Office of Minority Health, the OPHS, nor the U. S. Department of Health and Human Services. The study was conducted between October 2000 and May 2001. The policies and/or data per state may have changed since that time. The findings that have been updated in this draft report are the U.S. Census data (updated so that all data is from the 2000 Census) and the Center for Medicare & Medicaid Services (CMS)/HHS Medicaid data (updated from the June 30, 2000 to the December 31, 2002 reports).

GEORGIA

A. General and Health Demographics

Total Population	8,186,453
Percent Black Population	28.5
Percent American Indian and Alaskan Native Population	0.2
Percent Asian Population	2.1
Percent Native Hawaiian and Other Pacific Islander Population	0.0
Percent Hispanic Population (of any race)	5.3
Percent White Population	62.6
Other (some other race and two or more races)	1.2
Language Use - 1990 census data	
Percent Limited English Proficiency (LEP) Population	2.92 (4.93)
Health Care Delivery Profile	
Percent of Total Non-elderly Population Privately Insured (1997-99)	68.8
Percent of Total Population Enrolled in HMOs	17.81
Medicaid Enrollment (as of June 30, 2000)	1,323,205 (16.16%)
Medicaid Managed Care Enrollment	928,728 (70.19%)
Percent of Total Non-elderly Population Uninsured (1997-99)	18.9

B. Collection and Reporting of Racial and Ethnic Data by Health Insurers and Managed Care Organizations

1. Statutes, Regulations, Policies, and Other Written Materials

The Georgia Insurance Commission (GIC) oversees health insurers operating within the state of Georgia. Georgia uses the term “insurer” to encompass health insurance companies and health maintenance organizations (HMOs).¹ A managed care plan or organization (MCO) “provides for the financing and delivery of health care services” through provider arrangements,

¹ Official Code of Georgia Annotated (O.C.G.A.) § 33-1-2(4).

financial incentives, and provider selection standards.² This state summary will use the term “insurer” to refer to these entities, unless there is a distinction made within the statutes or regulations regarding the issue being discussed.

Georgia does not have any statutes, regulations, or policies that mandate, prohibit, or discuss the collection or reporting of racial and ethnic data.

Georgia does require that all health insurance policies or any application related to the policies be filed with the GIC and receive departmental approval prior to its use.³

In addition, an HMO must develop and implement a quality assurance (QA) program.⁴ As part of the QA program, the HMO must “assure that the quality of health care services is continually monitored, reviewed, and evaluated . . .”⁵ The QA program must include, at a minimum, the following: (1) mechanisms to collect data; (2) routine reporting of the results of quality assurance program activities to the HMO administration; and, (3) mechanisms to identify and make the appropriate recommendations regarding problem areas.⁶

Finally, HMOs are required to establish and maintain a health services information system.⁷ This information system must be able to collect, process, maintain, store and retrieve any data or information pertaining to health care services delivered to HMO enrollees.⁸ At a minimum, each record for each enrollee must include the name, address, age, birthdate, gender, marital status, and occupation of the enrollee.⁹

2. Discrimination

Georgia does not have a statute that prohibits discrimination on the basis of race, color or national origin with regard to access to public accommodations or public services. The only provision that addresses discrimination and access to public accommodations is one that prohibits discrimination because of a disability.¹⁰

² O.C.G.A. § 33-20A-3(7).

³ O.C.G.A. § 33-24-9(a).

⁴ Ga. Comp. R. & Regs § 290-5-37-.07(1).

⁵ *Id.*

⁶ *Id.*

⁷ Ga. Comp. R. & Regs. § 290-5-37-.05(1).

⁸ *Id.*

⁹ *Id.*

¹⁰ O.C.G.A. § 30-4-2(a).

The GIC requires that rates for any class of insurance not be excessive, inadequate, or unfairly discriminatory. However, this provision does not specifically prohibit health insurers from discriminating on the basis of race or ethnicity.¹¹

3. Confidentiality

An HMO must hold in confidence any data or information pertaining to an enrollee's diagnosis, treatment, or health.¹² This information may only be disclosed if: (1) the enrollee expressly consents to its disclosure; (2) there is a statute or court order for the production of evidence; or (3) there is a claim or litigation between the enrollee and the HMO.¹³ In addition, all managed care plans must establish procedures to safeguard the privacy of "individually identifiable" patient information.¹⁴

C. Collection and Reporting of Racial and Ethnic Data by Other Health Care Entities

1. Department of Community Health, Division of Medical Assistance (DMA)

a. Statutes, Regulations, Policies and Other Written Materials

The DMA is the state agency that administers Georgia's Medicaid program and PeachCare for Kids, Georgia's SCHIP program. There are no state statutes or rules that either require or prohibit the collection or reporting racial, ethnic or primary language data by the DMA. However, the Medicaid Managed Care contract has several provisions that implicate the need for racial, ethnic and primary language data. Medicaid managed care providers must have an internal quality assurance plan that "provides for systematic collection of performance and patient outcome data."¹⁵ This quality assurance plan should include the performance of clinical studies and the development of clinical guidelines which help the managed care organization monitor accessibility and quality of care.¹⁶

The application for the PeachCare for Kids program collects racial information for each child applying for benefits. The application does not indicate whether providing this information is voluntary for the applicant. In addition, the application does not provide any racial categories for the applicant to use.

¹¹ O.C.G.A. § 33-9-4(1). The statute does, however, prohibit an insurer from basing its rates on race or ethnicity when issuing vehicle insurance. *See also* O.C.G.A. § 33-24-45.

¹² O.C.G.A. § 33-21-23(a); Ga. Comp. R. & Regs. § 290-5-37-.06.

¹³ *Id.*

¹⁴ O.C.G.A. § 33-20A-8.

¹⁵ Georgia Contract, § 7.1(c).

¹⁶ *Id.*, § 7.2.

A contracting MCO must provide appropriate foreign language interpreters and member materials printed in each language spoken by ten percent (10%) or more of its members in its service area.¹⁷ Also, an MCO must submit to the Division of Medical Assistance quality assurance reports that are consistent with the HEDIS reporting requirements for both its Medicaid and non-Medicaid enrollees.¹⁸

b. Discrimination

The Division of Medical Assistance has recognized that it is subject to the Title VI of the Civil Rights Act of 1964.¹⁹ In addition, the Georgia Medicaid Managed Care contract requires that all eligible recipients be enrolled into the MCO without regard to their race, color or national origin.²⁰

Both the PeachCare for Kids and the Medicaid Manuals also require all providers to “provide services in compliance with Title VI of the Civil Rights Act of 1964.”²¹

c. Confidentiality

Under Georgia’s insurance laws, all managed care plans must establish procedures to safeguard the privacy of “individually identifiable” patient information.²²

2. Department of Human Resources, Division of Public Health (DPH)

a. Statutes, Regulation, Policies, and Other Written Materials

The DPH is a key collector and reporter of racial and ethnic data. The DPH collects such data for specific conditions and medical services including HIV²³ and abortions.²⁴ In addition, all medical records maintained by any ambulatory surgical treatment center must contain information about the patient’s race.²⁵ Although not statutorily required, DPH collects and reports race data for its birth and death records.²⁶

¹⁷ Georgia Contract, §§ 6.4, 6.6.

¹⁸ *Id.*, Attachment IV.

¹⁹ Ga. Comp. R. & Regs. § 350-1-.05.

²⁰ Georgia Contract, § 4.1(d)

²¹ PeachCare for Kids Manual, § 106.3; Medicaid Manual, § 106.3.

²² O.C.G.A. § 33-20A-8.

²³ O.C.G.A. § 31-22-9.2(b).

²⁴ Ga. Comp. R. & Regs. § 290-5-32-.03(2)(b).

²⁵ Ga. Comp. R. & Regs. § 290-5-33-.12(2)(a)(1).

²⁶ See <http://www.ph.dhr.state.ga.us/programs/ohip/pdfs/birthdeath98/statebirthdeath98.pdf>.

The DPH is authorized to request, collect and receive data from various health care entities and state officials including health care providers,²⁷ the Department of Community Health, the Commissioner of Insurance, third-party payors²⁸ and the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO).²⁹ Further, all health care providers must submit a report to the DPH which includes information such as: (1) amount of charity care given; (2) availability of emergency services, trauma centers, etc.; (3) uniform billing data, including race; and (4) number of indigent persons served.³⁰

b. Discrimination

As an entity that receives federal financial assistance, the DPH is bound by Title VI of the Civil Rights Act of 1964.

c. Confidentiality

There are several provisions regarding the confidentiality of information in the possession of the DPH. Generally, the DPH is allowed to disclose “nonpatient-specific” data that is required under its health care data collection provisions.³¹ In addition, the Department must compile and disseminate the data in a manner that maintains the confidentiality of the patients.³² Finally, Georgia’s public records law provides that certain state data and information, including medical records, are not available for public inspection.³³

D. Observations

Georgia does not have any statutes, regulations, or policies that mandate, prohibit, or discuss the collection or reporting of racial and ethnic data.

Unfortunately, Georgia provides very little incentive for health insurers and managed care plans to collect racial, ethnic and primary language data. However, because HMOs already are required to maintain effective health information systems, incorporating racial and ethnic data into these systems may not prove difficult. In addition, racial and ethnic data may prove

²⁷ Health care providers are defined as “any hospital or ambulatory surgical or obstetrical facility” licensed by the Department of Health. O.C.G.A. § 31-7-280.

²⁸ Third-party payor is “any entity which provides health care insurance or health care service plan, including but not limited to providers of major medical or comprehensive accident or health insurance. . . .” O.C.G.A. § 31-7-280.

²⁹ O.C.G.A. § 31-7-282.

³⁰ O.C.G.A. § 31-7-280(c).

³¹ O.C.G.A. § 31-7-284(a).

³² O.C.G.A. § 31-7-285(d).

³³ O.C.G.A. § 50-18-72(a)(2).

beneficial to effective implementation of a QA program that identifies problem areas in an HMO's health care delivery system.

Because the public accommodations statute does not address racial or ethnic discrimination, there is limited protection against such discrimination by health insurers.

Interestingly, Georgia requires "all written forms, applications, questionnaires and other written documents or materials produced by or . . . used by any state agency which requests racial and ethnic information" to include among the choices for race the classification "multiracial."³⁴

³⁴ O.C.G.A. § 50-18-135.