

The Senate Health and Human Services Committee offered the following substitute to SB 63:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public
2 assistance, so as to enact the "Georgia Medical Assistance Fraud Prevention Program"; to
3 provide for the adoption of a medical assistance fraud prevention program; to provide for
4 definitions; to provide for implementation by the Department of Community Health; to
5 provide for implementation of a pilot program; to provide for participation; to provide for
6 cooperation by the Department of Human Services; to provide for statutory construction; to
7 provide for certain matters to be referred to the Attorney General; to provide for a waiver;
8 to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance,
12 is amended by adding a new article to read as follows:

13 "ARTICLE 10

14 49-4-200.

15 This article shall be known and may be cited as the 'Georgia Medical Assistance Fraud
16 Prevention Program.'

17 49-4-201.

18 As used in this article, the term:

19 (1) 'Board' means the Board of Community Health established under Chapter 2 of Title
20 31.

21 (2) 'CAPTCHA' means a challenge-response test used as an attempt to ensure that the
22 response is not generated by a computer if the transaction is being completed online or
23 a secure question and answer process if the transaction is being completed in person.

24 (3) 'Care management organization' means an entity that is organized for the purpose of
 25 providing or arranging health care, which has been granted a certificate of authority by
 26 the Commissioner of Insurance as a health maintenance organization pursuant to Chapter
 27 21 of Title 33, and which has entered into a contract with the department to provide or
 28 arrange health care services, products, or both on a prepaid, capitated basis to members.

29 (4) 'Claim' includes any request or demand, whether under a contract or otherwise, for
 30 money, property, or services, which is made to the Georgia Medicaid program, or to any
 31 officer, employee, fiscal intermediary, grantee, or contractor of the Georgia Medicaid
 32 program, or to other persons or entities if it results in payments by the Georgia Medicaid
 33 program, if the Georgia Medicaid program provides or will provide any portion of the
 34 money or property requested or demanded, or if the Georgia Medicaid program will
 35 reimburse the contractor, grantee, or other recipient for any portion of the money or
 36 property requested or demanded. A claim includes a request or demand made orally, in
 37 writing, electronically, or magnetically and:

38 (A) Identifies a product or service provided or purported to have been provided within
 39 the State of Georgia to a recipient as reimbursable under the medical assistance
 40 program, without regard to whether the money that is requested or demanded is paid;

41 (B) States the income earned or expense incurred by a provider in providing a product
 42 or a service and that is used to determine a rate of payment under the medical assistance
 43 program; and

44 (C) Has been generated at the point of transaction and as a result of recipients
 45 participating in prescribed method of identity authentication as defined in paragraph (2)
 46 of subsection (c) and paragraphs (1) and (2) of subsection (d) of Code Section
 47 49-4-203.

48 (5) 'Commissioner' means the commissioner of community health.

49 (6) 'Department' means the Department of Community Health established under Chapter
 50 2 of Title 31.

51 (7) 'Health care provider' means any person, partnership, professional association,
 52 corporation, facility, or institution certified, licensed, or registered by the State of Georgia
 53 that has contracted with a care management organization to provide health care services,
 54 products, or both to members.

55 (8) 'Medicaid' means the joint federal and state program of medical assistance established
 56 by Title XIX of the federal Social Security Act, which is administered in this state by the
 57 department pursuant to Article 7 of this chapter.

58 (9) 'Medical assistance' means payment to a provider of a part or all of the cost of certain
 59 items of medical or remedial care or service rendered by the provider to a recipient,
 60 provided such items are rendered and received in accordance with such provisions of

61 Title XIX of the federal Social Security Act of 1935, as amended, regulations
62 promulgated pursuant thereto by the secretary of health and human services, all
63 applicable laws of this state, the state plan, and regulations of the department which are
64 in effect on the date on which the items are rendered.

65 (10) 'Medical assistance card' means Medicaid cards currently used by recipients prior
66 to the implementation of the state-wide rollout pursuant to this article, and which will be
67 replaced by secure identification cards pursuant to this article, which shall identify
68 eligible recipients and their account numbers, and shall be used by recipients to obtain
69 medical assistance for which payment by the state shall be tendered.

70 (11) 'Member' means a Medicaid or PeachCare for Kids recipient who is currently
71 enrolled in a care management organization plan.

72 (12) 'PeachCare for Kids' means the State of Georgia's State Children's Health Insurance
73 Program established pursuant to Title XXI of the federal Social Security Act, which is
74 administered in this state by the department pursuant to Article 13 of Chapter 5 of this
75 title.

76 (13) 'Physician' means a physician licensed to practice medicine in this state pursuant to
77 Chapter 34 of Title 43.

78 (14) 'Pilot program' means a proactive medical assistance fraud prevention pilot program
79 implemented pursuant to this article prior to a state-wide rollout of the Georgia Medical
80 Assistance Fraud Prevention Program.

81 (15) 'Point of transaction' means the act of a recipient obtaining a service, product, or
82 both provided by a provider, which service, product, or both is submitted as a claim to
83 be paid for by the Georgia Medicaid program as established by Title XIX of the federal
84 Social Security Act, which is administered in this state by the Department of Community
85 Health pursuant to Article 7 of this chapter.

86 (16) 'Program' means the Georgia Medical Assistance Fraud Prevention Program
87 established and operated pursuant to this article.

88 (17) 'Provider' means a health care provider or provider of medical assistance.

89 (18) 'Provider of medical assistance' means a person or institution, public or private,
90 including its employees, which possesses all licenses, permits, certificates, approvals,
91 registrations, charters, and other forms of permission issued by entities other than the
92 department, which forms of permission are required by law either to render health care
93 services, products, or both or to receive medical assistance in which federal financial
94 participation is available and which meets the further requirements for participation
95 prescribed by the department and which is enrolled, in the manner and according to the
96 terms prescribed by the department, to participate in the state plan.

97 (19) 'Recipient' means a member or recipient of medical assistance.

98 (20) 'Recipient of medical assistance' means a person who has been certified eligible,
99 pursuant to the state plan, to have medical assistance paid on his or her behalf.

100 (21) 'Secure identification card' means a card issued by the department pursuant to Code
101 Section 49-4-203.

102 (22) 'Service' includes care or treatment of recipients.

103 (23) 'State plan' means all documentation submitted by the commissioner on behalf of
104 the department to and for approval by the secretary of health and human services,
105 pursuant to Title XIX of the federal Social Security Act, as amended (Act of July 30,
106 1965, P.L. 89-97, Stat. 343, as amended).

107 49-4-202.

108 (a) The department shall establish and administer the Georgia Medical Assistance Fraud
109 Prevention Program. The board shall have the authority to enter into an agreement with
110 one or more third-party vendors for the purpose of implementing and maintaining the
111 program in accordance with this article.

112 (b) Prior to a state-wide rollout of the program, the department shall conduct a proactive
113 medical assistance fraud prevention pilot program. The board shall determine the scope
114 of the pilot program and shall have the authority to enter into an agreement with one or
115 more third-party vendors for the purpose of developing and executing the pilot program in
116 accordance with this article. Further, the board is authorized to establish such rules and
117 regulations as may be necessary or desirable in order to execute the pilot program.

118 (c) The department shall implement a pilot program for not less than three months and not
119 more than six months, within three counties or municipalities. One county or one
120 municipality shall be from each of following population brackets according to the United
121 States Decennial Census of 2000: (1) 50,000 or less, (2) 100,000 to 250,000, and (3) more
122 than 300,000. The pilot program shall involve enrollment, distribution, and use of secure
123 identification cards by all recipients as replacements for currently used Medicaid assistance
124 cards. The pilot program shall involve verifying the status of each recipient of medical
125 assistance at the point of transaction including at least:

126 (1) Verification of the authenticity of the secure identification card;

127 (2) Verification that the secure identification card has not been reported lost, stolen,
128 revoked, or damaged;

129 (3) Verification that the recipient of medical services remains eligible to receive medical
130 assistance prior to health care provider administering service;

131 (4) Verification that the health care provider is or remains eligible to administer services
132 to recipients of medical assistance; and

133 (5) Verification by the recipient that one or more health care providers provided the
134 stated services.

135 (d) The board shall mandate sufficient participation in the pilot program by providers and
136 recipients in the counties and municipalities in which the pilot program is conducted to
137 ensure proper evaluation of the pilot results.

138 (e) The department shall implement the pilot program not later than October 1, 2011.

139 49-4-203.

140 (a) The department shall implement the Georgia Medical Assistance Fraud Prevention
141 Program to address Medicaid fraud, waste, and abuse.

142 (b) The program shall be designed to:

143 (1) Authenticate recipients and their eligibility status at the onset and completion of each
144 point of transaction in order to prevent card sharing and other forms of fraud and to
145 confirm with the recipient that services were indeed administered by one or more
146 approved health care providers;

147 (2) Deny ineligible persons at the point of transaction;

148 (3) Authenticate providers of services including their eligibility status and link with each
149 recipient of medical assistance at the point of transaction to prevent phantom billing and
150 other forms of provider fraud;

151 (4) Secure and protect the personal identity and information of recipients; and

152 (5) Reduce the total amount of medical assistance expenditures by reducing the average
153 cost per recipient.

154 (c) The program shall include:

155 (1) Secure identification cards issued to each recipient of medical assistance that
156 incorporate overt and covert security features which shall be blended with the personal
157 data printed on the card to form a significant barrier to imitation, replication, and
158 duplication. The secure identification cards shall incorporate custom optical variable
159 devices, demetalized optical variable devices, and a color photograph of the recipient
160 viewable under ambient light from the front and back of the card incorporating microtext
161 and unique alphanumeric serialization specific to the eligible card holder. Other novel
162 physical and electronic security features that prevent the duplication, counterfeiting,
163 forging, or modification of the card may be employed as well that provide the greatest
164 security for the least amount of cost;

165 (2) The assignment or personal selection of a unique personal identification number or
166 password and CAPTCHA for use by each recipient of medical assistance;

- 167 (3) The assignment or personal selection of a unique personal identification number or
168 password and CAPTCHA for use by each health care provider administrator and point
169 of transaction operator;
- 170 (4) Priority to the vendor that satisfies all of the requirements of this article and requires
171 the least amount of new infrastructure for the health care provider and at the point of
172 transaction thereby keeping program costs and the impact on health care providers at a
173 minimum;
- 174 (5) A secure, web based information system for recording and reporting authenticated
175 transactions, including secure access, audit logging, and nonrepudiation to support and
176 validate each component and member in the system;
- 177 (6) A secure, web based information system that interfaces with one or more systems of
178 record to determine eligibility of recipients and health care providers that:
- 179 (A) Exposes only the minimal and required personal privacy information data to
180 authorized parties;
- 181 (B) Provides mechanisms for recipients and health care provider administrators to
182 manage and control their personal or organizational data; and
- 183 (C) Fully complies with local, state, and federal privacy laws, including the federal
184 Health Insurance Portability and Accountability Act of 1996, P.L. 104-191.
- 185 (7) A secure, web based information system that gathers analytical information in order
186 to assist in data-mining processes;
- 187 (8) Priority to the vendor that requires the least amount of information to be exchanged,
188 copied, or moved by and between various systems of records, recipients, health care
189 providers, and points of transaction thereby reducing the liability and risk that results
190 from the movement, copying, or exposing of recipient, health care provider, and
191 transaction data;
- 192 (9) No requirement for preenrollment of recipients; and
- 193 (10) A photograph of each recipient stored on the secure identification card and
194 information system data base, for viewing by health care providers at the point of
195 transaction prior to administrating services for the purposes of verifying identity.
- 196 (d) In implementing the program, the department may:
- 197 (1) Optionally implement biometric identification systems or services during registration
198 of recipients to detect duplicate and alias registrations attempted by one or more
199 recipients, based on industry research, cost-benefit analysis, testing, and piloting of said
200 biometric identification systems or services;
- 201 (2) Enter and store billing codes, deductible amounts, and bill confirmations;

202 (3) Allow electronic prescribing services and prescription data base integration and
203 tracking in order to prevent medical error and to reduce pharmaceutical abuse and lower
204 health care costs through information sharing;

205 (4) Implement quick pay incentives for providers when electronic prescribing services,
206 electronic health records, electronic patient records, or computerized patient records used
207 by providers automatically synchronize with the information system to electronically
208 submit a claim; and

209 (5) Allow the program to be adapted for use by other state programs administered by the
210 department and the Department of Human Services.

211 (e) The department shall implement a state-wide rollout of the program after completion
212 of a successful pilot program. The pilot program shall be considered a success if it meets
213 the minimum criteria defined in subsections (b) and (c) of this Code section and reduces
214 the average monthly cost of recipients within the pilot program area by a minimum of 5
215 percent. In the event that the pilot program does not meet the minimum criteria to be
216 considered a success, the department may be authorized to extend and revise the pilot
217 program as necessary and to reevaluate the results. In order to evaluate the average
218 monthly cost of recipients within the pilot program and develop the strategy necessary to
219 target the highest rate of savings to the state plan, four sample sets of figures shall be
220 analyzed for the pilot program, including:

221 (1) Establishment of base figures:

222 Claims data for a first sample set shall be gathered which shall include all claims for the
223 recipients within the pilot program area and the average cost per recipient by provider
224 type and county or municipality from at least the prior year for the exact time period for
225 all areas in the pilot program;

226 (2) Adjusted base figures for increase or decrease in cost of services:

227 In order to evaluate increases or decreases in the cost of services, a second sample set
228 shall be gathered and adjusted to the base figures of the first sample set. The second
229 sample set of claims data shall represent a corresponding county or municipality of a
230 similar size not participating in the pilot program, with as closely as possible the same
231 demographics as the population of recipients in the pilot program areas, including
232 specific data relating to sex, age, race, and ethnicity, county or municipality similarities,
233 number of providers, and the average cost per recipient. This sample set shall be
234 analyzed against the prior year's figures and compared to current year figures for the same
235 time frame and county or municipality to determine an increase or decrease in cost of
236 services. This sample shall not have any major changes from the prior year to the current
237 year that would change the comparison, such as the introduction of managed care in the
238 area. The increase or decrease in cost per recipient from this sampling shall be factored

239 into the data set determined pursuant to paragraph (1) of this subsection to derive at an
240 adjusted base figure or average cost per recipient per month;

241 (3) Comparison of base figures to current figures:

242 A third sample set of data shall be gathered reflecting the claims data of the recipients and
243 the average cost per recipient on a monthly basis during the pilot program by provider
244 type. A comparison of the adjusted base figures arrived at by the prior sampling with the
245 actual figures from this third sample set shall be made to determine how much the state
246 saved by provider type. Recipients leaving the pilot program area to avoid fraud
247 detection will be noted, thus, the third sample set will be adjusted by claims derived
248 outside of the pilot program area; and

249 (4) Recipient surveying:

250 A fourth sample set of data shall be obtained by sampling 2 percent of Georgia Medicaid
251 recipients in the pilot program area who shall be surveyed prior to the start of the pilot
252 program to acknowledge services used, frequency of services used, and satisfaction of
253 services used. This survey shall be taken again at the completion of the pilot program to
254 rate the level of satisfaction of the pilot program.

255 (f) The department shall adopt a plan to implement the program state wide in phases. The
256 plan shall include for each phase:

257 (1) A description of the policies and procedures concerning the handling of lost,
258 forgotten, stolen, and damaged secure identification cards, as well as situations in which
259 the recipient's identity cannot be confirmed;

260 (2) A description of the policies and procedures for enrolling all recipients, regardless
261 of age, for participation in the program;

262 (3) A description of the policies and procedures for distributing and activating secure
263 identification cards for all recipients; and

264 (4) A description of the policies and procedures for implementing one or more
265 third-party vendor's solutions at health care provider locations, including program
266 management, distribution and installation, initial and ongoing training, and initial and
267 ongoing support and maintenance.

268 (g) The board shall mandate participation in the program by all providers and recipients
269 as the program is rolled out.

270 49-4-204.

271 The department, in preparation for implementing the pilot program required by this article,
272 shall submit a monthly report regarding the progress of pre-implementation of the pilot
273 program to the Governor, Lieutenant Governor, Speaker of the House of Representatives,
274 and presiding officer of each standing committee of the Senate and House of

275 Representatives having jurisdiction over the Georgia Medicaid program. Upon
276 implementation of the pilot program, a quarterly report shall be submitted by the
277 department. The first quarterly report shall include an evaluation of the success of the pilot
278 program, as required by subsection (e) of Code Section 49-4-203.

279 49-4-205.

280 The Department of Human Services shall cooperate and assist the department in the
281 process of adopting and administering both the program and the pilot program.

282 49-4-206.

283 It is the intention of the department that this article be construed consistent with the federal
284 Social Security Act, and any provision of this article found to be in conflict with the federal
285 Social Security Act shall be deemed to be void and of no effect. It is further the intention
286 of the department, in view of the joint state and federal financial participation in the
287 Georgia plan, that the department shall be authorized to adopt such regulations as may be
288 necessary to comply with the requirements of the federal Social Security Act.

289 49-4-207.

290 The department may refer matters to the Attorney General for handling pursuant to Code
291 Section 49-4-168.2 relating to possible violations of Article 7B of this chapter.

292 49-4-208.

293 If, before implementing any provision of this article, the department determines that a
294 waiver or authorization from a federal agency is necessary for implementation of that
295 provision, the department shall request the waiver or authorization."

296 **SECTION 2.**

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