

Senate Bill 63

By: Senators Albers of the 56th, Ligon, Jr. of the 3rd, Bethel of the 54th, Staton of the 18th,
Miller of the 49th and others

AS PASSED SENATE

**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) 'Care management organization' means an entity that is organized for the purpose of
22 providing or arranging health care, which has been granted a certificate of authority by
23 the Commissioner of Insurance as a health maintenance organization pursuant to Chapter

24 21 of Title 33, and which has entered into a contract with the department to provide or
 25 arrange health care services, products, or both on a prepaid, capitated basis to members.
 26 (3) 'Claim' includes any request or demand, whether under a contract or otherwise, for
 27 money, property, or services, which is made to the Georgia Medicaid program, or to any
 28 officer, employee, fiscal intermediary, grantee, or contractor of the Georgia Medicaid
 29 program, or to other persons or entities if it results in payments by the Georgia Medicaid
 30 program, if the Georgia Medicaid program provides or will provide any portion of the
 31 money or property requested or demanded, or if the Georgia Medicaid program will
 32 reimburse the contractor, grantee, or other recipient for any portion of the money or
 33 property requested or demanded. A claim includes a request or demand made orally, in
 34 writing, electronically, or magnetically and:

35 (A) Identifies a product or service provided or purported to have been provided within
 36 the State of Georgia to a recipient as reimbursable under the medical assistance
 37 program, without regard to whether the money that is requested or demanded is paid;
 38 (B) States the income earned or expense incurred by a provider in providing a product
 39 or a service and that is used to determine a rate of payment under the medical assistance
 40 program; and

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

45 (4) 'Commissioner' means the commissioner of community health.

46 (5) 'Department' means the Department of Community Health established under Chapter
 47 2 of Title 31.

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

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

55 (8) 'Medical assistance' means payment to a provider of a part or all of the cost of certain
 56 items of medical or remedial care or service rendered by the provider to a recipient,
 57 provided such items are rendered and received in accordance with such provisions of
 58 Title XIX of the federal Social Security Act of 1935, as amended, regulations
 59 promulgated pursuant thereto by the secretary of health and human services, all

60 applicable laws of this state, the state plan, and regulations of the department which are
61 in effect on the date on which the items are rendered.

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

67 (10) 'Member' means a Medicaid or PeachCare for Kids recipient who is currently
68 enrolled in a care management organization plan.

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

73 (12) 'Physician' means a physician licensed to practice medicine in this state pursuant to
74 Chapter 34 of Title 43.

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

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

83 (15) 'Program' means the Georgia Medical Assistance Fraud Prevention Program
84 established and operated pursuant to this article.

85 (16) 'Provider' means a health care provider or provider of medical assistance.

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

94 (18) 'Recipient' means a member or recipient of medical assistance.

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

- 97 (20) 'Secure identification card' means a card issued by the department pursuant to Code
 98 Section 49-4-203.
- 99 (21) 'Service' includes care or treatment of recipients.
- 100 (22) 'State plan' means all documentation submitted by the commissioner on behalf of
 101 the department to and for approval by the secretary of health and human services,
 102 pursuant to Title XIX of the federal Social Security Act, as amended (Act of July 30,
 103 1965, P.L. 89-97, Stat. 343, as amended).
- 104 49-4-202.
- 105 (a) The department shall establish and administer the Georgia Medical Assistance Fraud
 106 Prevention Program. The board shall have the authority to enter into an agreement with
 107 one or more third-party vendors for the purpose of implementing and maintaining the
 108 program in accordance with this article.
- 109 (b) Prior to a state-wide rollout of the program, the department shall conduct a proactive
 110 medical assistance fraud prevention pilot program. The board shall determine the scope
 111 of the pilot program and shall have the authority to enter into an agreement with one or
 112 more third-party vendors for the purpose of developing and executing the pilot program in
 113 accordance with this article. Further, the board is authorized to establish such rules and
 114 regulations as may be necessary or desirable in order to execute the pilot program.
- 115 (c) The department shall implement a pilot program for not less than three months and not
 116 more than six months, within three counties or municipalities. One county or one
 117 municipality shall be from each of following population brackets according to the United
 118 States Decennial Census of 2000: (1) 50,000 or less, (2) 100,000 to 250,000, and (3) more
 119 than 300,000. The pilot program shall involve enrollment, distribution, and use of secure
 120 identification cards by all recipients as replacements for currently used Medicaid assistance
 121 cards. The pilot program shall involve verifying the status of each recipient of medical
 122 assistance at the point of transaction including at least:
- 123 (1) Verification of the authenticity of the recipient and the secure identification card;
 124 (2) Verification that the secure identification card has not been reported lost, stolen,
 125 revoked, or damaged;
 126 (3) Verification that the recipient of medical services remains eligible to receive medical
 127 assistance prior to health care provider administering service;
 128 (4) Verification that the health care provider is or remains eligible to administer services
 129 to recipients of medical assistance; and
 130 (5) Verification by the recipient that one or more health care providers provided the
 131 stated services.

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

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

136 49-4-203.

137 (a) The department may implement the Georgia Medical Assistance Fraud Prevention
138 Program to address Medicaid fraud, waste, and abuse.

139 (b) The program shall be designed to:

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

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

145 (3) Authenticate providers of services including their eligibility status and each recipient
146 of medical assistance at the point of transaction to prevent phantom billing and other
147 forms of provider fraud;

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

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

151 (c) The program shall include:

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

162 (2) The assignment or personal selection of a unique personal identification number or
163 password for use by each recipient of medical assistance;

164 (3) The assignment or personal selection of a unique personal identification number or
165 password for use by each health care provider administrator and point of transaction
166 operator;

- 167 (4) Priority to the vendors that satisfies all of the requirements of this article and requires
 168 the least amount of new infrastructure for the health care provider and at the point of
 169 transaction thereby keeping program costs and the impact on health care providers at a
 170 minimum;
- 171 (5) A secure, web based information system for recording and reporting authenticated
 172 transactions, including secure access, audit logging, and nonrepudiation to support and
 173 validate each component and member in the system;
- 174 (6) A secure, web based information system that interfaces with one or more systems of
 175 record to determine eligibility of recipients and health care providers that:
- 176 (A) Exposes only the minimal and required personal privacy information data to
 177 authorized parties;
- 178 (B) Provides mechanisms for recipients and health care provider administrators to
 179 manage and control their personal or organizational data; and
- 180 (C) Fully complies with local, state, and federal privacy laws, including the federal
 181 Health Insurance Portability and Accountability Act of 1996, P.L. 104-191.
- 182 (7) A secure, web based information system that gathers analytical information in order
 183 to assist in data-mining processes;
- 184 (8) Priority to the vendors that requires the least amount of information to be gathered
 185 and stored by the state, thereby reducing the liability and risk to the state;
- 186 (9) No requirement for preenrollment of recipients; and
- 187 (10) A photograph of each recipient stored on the secure identification card and
 188 information system data base, for viewing by health care providers at the point of
 189 transaction prior to administrating services for the purposes of verifying identity.
- 190 (d) In implementing the program, the department may:
- 191 (1) Enter and store billing codes, deductible amounts, and bill confirmations;
- 192 (2) Allow electronic prescribing services and prescription data base integration and
 193 tracking in order to prevent medical error and to reduce pharmaceutical abuse and lower
 194 health care costs through information sharing; and
- 195 (3) Implement quick pay incentives for providers when electronic prescribing services,
 196 electronic health records, electronic patient records, or computerized patient records used
 197 by providers automatically synchronize with the information system to electronically
 198 submit a claim.
- 199 (e) The department may implement a state-wide rollout of the program after completion
 200 of a successful pilot program. The pilot program shall be considered a success if it meets
 201 the minimum criteria defined in subsections (b) and (c) of this Code section and reduces
 202 the average monthly cost of recipients within the pilot program area by a minimum of
 203 5 percent. In the event that the pilot program does not meet the minimum criteria to be

204 considered a success, the department may be authorized to extend and revise the pilot
205 program as necessary and to reevaluate the results. In order to evaluate the average
206 monthly cost of recipients within the pilot program and develop the strategy necessary
207 to target the highest rate of savings to the state plan, four sample sets of figures shall be
208 analyzed for the pilot program, including:

209 (1) Establishment of base figures:

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

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

215 In order to evaluate increases or decreases in the cost of services, a second sample set
216 shall be gathered and adjusted to the base figures of the first sample set. The second
217 sample set of claims data shall represent a corresponding county or municipality of a
218 similar size not participating in the pilot program, with as closely as possible the same
219 demographics as the population of recipients in the pilot program areas, including
220 specific data relating to sex, age, race, and ethnicity, county or municipality similarities,
221 number of providers, and the average cost per recipient. This sample set shall be
222 analyzed against the prior year's figures and compared to current year figures for the same
223 time frame and county or municipality to determine an increase or decrease in cost of
224 services. This sample shall not have any major changes from the prior year to the current
225 year that would change the comparison, such as the introduction of managed care in the
226 area. The increase or decrease in cost per recipient from this sampling shall be factored
227 into the data set determined pursuant to paragraph (1) of this subsection to derive at an
228 adjusted base figure or average cost per recipient per month;

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

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

237 (4) Recipient surveying:

238 A fourth sample set of data shall be obtained by sampling 2 percent of Georgia Medicaid
239 recipients in the pilot program area who shall be surveyed prior to the start of the pilot
240 program to acknowledge services used, frequency of services used, and satisfaction of

241 services used. This survey shall be taken again at the completion of the pilot program to
 242 rate the level of satisfaction of the pilot program.

243 (f) The department shall adopt a plan to implement the program state wide in phases.

244 The plan shall include for each phase:

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

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

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

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

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

258 49-4-204.

259 The department, in preparation for implementing the pilot program required by this article,
 260 shall submit a monthly report regarding the progress of pre-implementation of the pilot
 261 program to the Governor, Lieutenant Governor, Speaker of the House of Representatives,
 262 and presiding officer of each standing committee of the Senate and House of
 263 Representatives having jurisdiction over the Georgia Medicaid program. Upon
 264 implementation of the pilot program, a quarterly report shall be submitted by the
 265 department. The first quarterly report shall include an evaluation of the success of the pilot
 266 program, as required by subsection (e) of Code Section 49-4-203.

267 49-4-205.

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

270 49-4-206.

271 It is the intention of the department that this article be construed consistent with the federal
 272 Social Security Act, and any provision of this article found to be in conflict with the federal
 273 Social Security Act shall be deemed to be void and of no effect. It is further the intention
 274 of the department, in view of the joint state and federal financial participation in the

275 Georgia plan, that the department shall be authorized to adopt such regulations as may be
276 necessary to comply with the requirements of the federal Social Security Act.

277 49-4-207.

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

280 49-4-208.

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

284

SECTION 2.

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