

The Senate Health and Human Services Committee offered the following substitute to HB 489:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,  
2 relating to medical assistance generally, so as to prohibit contingency fee contracts for  
3 purposes of conducting investigations and audits for Medicaid recovery; to provide for  
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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

8 "49-4-151.1.

9 On and after July 1, 2011, the department shall not enter into any contract with a Medicaid  
10 recovery audit contractor, as identified in 19 U.S.C. 1902 (a)(42)(B), for the purpose of  
11 identifying underpayments and overpayments and recovering overpayments under the state  
12 plan or any waiver of the state plan when the basis of payment by the department is  
13 contingent upon a percentage of the overpayment amounts collected by the contractor.  
14 This Code section shall not apply to any such contingency fee contract entered into prior  
15 to July 1, 2011. Nothing in this Code section shall be construed to require the department  
16 to enter into any contract which would violate any federal law, rule, regulation, directive,  
17 or policy. Additionally, this Code section shall apply only to such Medicaid recovery audit  
18 contracts described herein. This Code section shall not apply to any other department  
19 contract, including, but not limited to, any contingency fee third-party liability recovery  
20 contract, estate recovery contract, state program integrity contract, or any other agency  
21 contract, lease, agreement, or other transaction entered into for the purposes of conducting  
22 investigations, utilization reviews, audits, or for any other departmental purpose. Pursuant  
23 to Title XIX of the federal Social Security Act, as amended by the federal Patient  
24 Protection and Affordable Care Act, the Centers for Medicaid & Medicare Services may  
25 issue a waiver that exempts a state from the federal requirement to pay Medicaid recovery  
26

27 audit contractors on a contingent fee basis when state law expressly prohibits such  
28 contingency fee contracting. The department shall seek such a waiver through the  
29 submission of a state plan amendment."

30 **SECTION 2.**  
31 All laws and parts of laws in conflict with this Act are repealed.