

House Bill 973 (AS PASSED HOUSE AND SENATE)

By: Representatives Lindsey of the 54th, Willard of the 51st, Ramsey of the 72nd, Dempsey of the 13th, and Evans of the 42nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7B of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
2 relating to false Medicaid claims, so as to provide for changes to civil penalties for false or
3 fraudulent Medicaid claims; to provide for a definition; to revise certain provisions relating
4 to when the court shall dismiss a civil action or claim; to provide for related matters; to
5 provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 7B of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
9 false Medicaid claims, is amended by revising Code Section 49-4-168.1, relating to civil
10 penalties for false or fraudulent Medicaid claims, as follows:

11 "49-4-168.1.

12 (a) Any person who:

13 (1) Knowingly presents or causes to be presented to the Georgia Medicaid program a
14 false or fraudulent claim for payment or approval;

15 (2) Knowingly makes, uses, or causes to be made or used a false record or statement
16 material to a false or fraudulent claim;

17 (3) ~~Conspires to defraud the Georgia Medicaid program by getting a false or fraudulent~~
18 ~~claim allowed or paid~~ commit a violation of paragraph (1), (2), (4), (5), (6), or (7) of this
19 subsection;

20 (4) Has possession, custody, or control of property or money used or to be used by the
21 Georgia Medicaid program and knowingly delivers, or causes to be delivered, less than
22 all of such property or money;

23 (5) Is authorized to make or deliver a document certifying receipt of property used, or
24 to be used, by the Georgia Medicaid program and, intending to defraud the Georgia
25 Medicaid program, makes or delivers the receipt without completely knowing that the
26 information on the receipt is true;

27 (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property
 28 from an officer or employee of the Georgia Medicaid program who lawfully may not sell
 29 or pledge the property; or

30 (7) Knowingly makes, uses, or causes to be made or used a false record or statement
 31 material to an obligation to pay or transmit property or money to the Georgia Medicaid
 32 program, or knowingly conceals or knowingly and improperly avoids or decreases an
 33 obligation to pay or transmit property or money to the Georgia Medicaid program,
 34 shall be liable to the State of Georgia for a civil penalty of not less than \$5,500.00 and not
 35 more than \$11,000.00 for each false or fraudulent claim, plus three times the amount of
 36 damages which the Georgia Medicaid program sustains because of the act of such person.

37 (b) The provisions of subsection (a) of this Code section notwithstanding, if the court finds
 38 that:

39 (1) The person committing the violation of this subsection furnished officials of the
 40 Georgia Medicaid program with all information known to such person about the violation
 41 within 30 days after the date on which the defendant first obtained the information;

42 (2) Such person fully cooperated with any government investigation of such violation;
 43 and

44 (3) At the time such person furnished the Georgia Medicaid program with the
 45 information about the violation, no criminal prosecution, civil action, or administrative
 46 action had commenced under this article with respect to such violation, and the person
 47 did not have actual knowledge of the existence of an investigation into such violation,
 48 the court may assess not more than two times the amount of the actual damages which the
 49 Georgia Medicaid program sustained because of the act of such person.

50 (c) A person violating any provision of subsection (a) of this Code section shall also be
 51 liable to this state for all costs of any civil action brought to recover the damages and
 52 penalties provided under this article.

53 (d) As used in this Code section, the term 'Georgia Medicaid program' includes any
 54 contractor, subcontractor, or agent for the Georgia Medicaid program, including, but not
 55 limited to, a managed care program operated, funded, or reimbursed by the Georgia
 56 Medicaid program."

57 **SECTION 2.**

58 Said article is further amended by revising in subsection (l) of Code Section 49-4-168.2,
 59 relating to the role of the Attorney General in pursuing cases, civil actions by private person,
 60 special procedures for civil actions by private person, limitation on participation, stay of
 61 discovery, and receipt of proceeds, as follows:

62 "(l)(1) As used in this subsection, the term 'original source' means an individual who:

- 63 (A) Prior to public disclosure, has voluntarily disclosed to the Attorney General the
64 information on which allegations or transactions in a claim are based; or
65 (B) Has knowledge that is independent of and materially adds to publicly disclosed
66 allegations or transactions and who has voluntarily provided such information to the
67 Attorney General before filing a civil action under this Code section.
- 68 (2) The court shall dismiss a civil action or claim under this Code section, unless
69 opposed by the Attorney General, if substantially the same allegations or transactions as
70 alleged in the action or claim were publicly disclosed:
- 71 (A) In any criminal, civil, or administrative hearing in which the State of Georgia or
72 its employee, agent, or contractor is a party;
73 (B) In a ~~congressional~~, legislative, or other ~~state or federal~~ Georgia report, hearing,
74 audit, or investigation; or
75 (C) From the news media,
76 unless the civil action is brought by the Attorney General or the person bringing the civil
77 action is an original source of the information."

78 **SECTION 3.**

79 This Act shall become effective upon its approval by the Governor or upon its becoming law
80 without such approval.

81 **SECTION 4.**

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