

## **GEORGIA LAW**

Georgia law imposes civil and criminal liability on persons who present false claims for payment under the Georgia Medicaid program. Georgia law also imposes criminal liability on any person who makes a false statement or representation or uses a false writing or document in matters within the jurisdiction of any department or agency of state government.

Official Code of Georgia Annotated § 49-4-146.1 provides, in pertinent part:

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(b) It shall be unlawful:

(1) For any person or provider to obtain, attempt to obtain, or retain for himself, herself, or any other person any medical assistance or other benefits or payments under this article, or under a managed care program operated, funded, or reimbursed by the Georgia Medicaid program, to which the person or provider is not entitled, or in an amount greater than that to which the person or provider is entitled, when the assistance, benefit, or payment is obtained, attempted to be obtained, or retained, by:

(A) Knowingly and willfully making a false statement or false representation;

(B) Deliberate concealment of any material fact; or

(C) Any fraudulent scheme or device; or

(2) For any person or provider knowingly and willfully to accept medical assistance payments to which he or she is not entitled or in an amount greater than that to which he or she is entitled, or knowingly and willfully to falsify any report or document required under this article.

(c) Any person violating paragraph (1) or (2) of subsection (b) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished for each offense by a fine of not more than \$10,000.00, or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment. In any prosecution under this Code section, the state has the burden of proving beyond a reasonable doubt that the defendant intentionally committed the acts for which he or she is charged.

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(d) In addition to any other penalties provided by law, each person violating subsection (b) of this Code section shall be liable to a civil penalty equal to the greater of (1) three times the amount of any such excess benefit or payment or (2) \$1,000.00 for each excessive claim for assistance, benefit, or payment. Additionally, interest on the penalty shall be paid at the rate of 12 percent per

annum from the date of payment of any such excessive amount, or from the date of receipt of any claim for an excessive amount when no payment has been made, until the date of payment of such penalty to the department.

In addition to the criminal and civil penalties noted above, Official Code of Georgia Annotated § 16-10-20 states:

A person who knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes a false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of state government or of the government of any county, city, or other political subdivision of this state shall, upon conviction thereof, be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both.

At the time VistaCare's False Claims Policy was adopted, Georgia had not enacted its own legislation similar to the Federal False Claims Act allowing private citizens or employees to file civil lawsuits to recover monetary damages against individuals and entities that submit false or fraudulent claims to the state Medicaid program.

Georgia has not enacted legislation prohibiting employers from taking disciplinary or retaliatory action against an employee who makes a lawful report of a violation of state or federal statutes. However, VistaCare's False Claims Policy requires all employees, contractors and agents with knowledge of potential fraud and abuse situations to report them, and prohibits retaliation or retribution for good faith reporting.

Should Georgia enact additional legislation pertaining to the submission of false claims, this summary will be updated to include detailed information about this false claims legislation and any additional penalties, civil or criminal, imposed pursuant to that legislation for false claims and statements.

References:

False Medicaid Claims: O.C.G.A § 49-4-146.1

False Statements: O.C.G.A. § 16-10-20