

Ala. Code 1975, § 13A-9-150(b)

Public Assistance Fraud
(Individual or Business Entity)

The defendant is charged with public assistance fraud.

A person commits the crime of public assistance fraud if he/she is an individual or business entity and knowingly does any of the following: **[Read all appropriate]**

- (1) Fails, by false statement, misrepresentation, impersonation, or other fraudulent means to disclose a material fact used in making a determination as to the qualification of the person to receive public assistance;
- (2) Fails to disclose a change in circumstances in order to obtain or continue to receive any public assistance to which he/she is not entitled or in an amount larger than that to which he/she is entitled;
- (3) Aids and abets another person to fail, by false statement, misrepresentation, impersonation, or other fraudulent means to disclose a material fact used in making a determination as to the qualification of the person to receive public assistance;
- (4) Aids and abets another person to fail to disclose a change in circumstances in order to obtain or continue to receive any public assistance to which he/she is not entitled or in an amount larger than that to which he/she is entitled;
- (5) Uses, transfers, acquires, traffics, alters, forges, possesses, attempts to use, attempts to transfer, attempts to acquire, attempts to traffic, attempts to alter, attempts to forge, attempts to possess, or aid and abet another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a food assistance identification card, an authorization, including but not limited to, an electronic authorization, for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law, or to re-encode a magnetic strip on any card with information issued by any state or federal agency that grants monetary benefits that were not issued by that agency or that does not match the information on the front of the card;
- (6) Files, attempts to file, or aids and abets in the filing of a claim for services to, or on behalf of, a recipient of public assistance for services that were not rendered;
- (7) Files a false claim or a claim for nonauthorized items or services under any state or federally funded public assistance program;

- (8) Bills the recipient of public assistance, or his/her family, for an amount in excess of that provided for by law or regulation;
- (9) Fails to credit, return, or pay back to the state or its agents any payments received from Social Security, insurance, or other sources of funds paid or administered by any state agency that are in excess of the approved or listed amount or were received or approved based on fraud or fraudulent conduct;
- (10) In any way, receives, attempts to receive, or aids and abets in the receipt of unauthorized payments or other unauthorized public assistance or authorization or identification to obtain public assistance;
- (11) Converts, charges, accepts, or in any way takes any funds administered by a public assistance program in excess of the listed price plus any applicable taxes; **(OR)**
- (12) Receives payment that includes public assistance funds, in any form, for the purchase of items that are not authorized or are prohibited by state or federal law.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant was an individual or business entity;
- (2) The Defendant did the following: **[Read all appropriate]**
 - (a) Failed, by false statement, misrepresentation, impersonation, or other fraudulent means to disclose a material fact used in making a determination as to the qualification of the person to receive public assistance;
 - (b) Failed to disclose a change in circumstances in order to obtain or continue to receive any public assistance to which he/she was not entitled or in an amount larger than that to which he/she was entitled;
 - (c) Aided and abetted another person to fail, by false statement, misrepresentation, impersonation, or other fraudulent means to disclose a material fact used in making a determination as to the qualification of the person to receive public assistance;
 - (d) Aided and abetted another person to fail to disclose a change in circumstances in order to obtain or continue to receive any public

assistance to which he/she was not entitled or in an amount larger than that to which he/she was entitled;

- (e) Used, transferred, acquired, trafficked, altered, forged, possessed, attempted to use, attempted to transfer, attempted to acquire, attempted to traffic, attempted to alter, attempted to forge, attempted to possess, or aided and abetted another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a food assistance identification card, an authorization, including but not limited to, an electronic authorization, for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law, or to re-encode a magnetic strip on any card with information issued by any state or federal agency that granted monetary benefits that were not issued by that agency or that did not match the information on the front of the card;
- (f) Filed, attempted to file, or aided and abetted in the filing of a claim for services to, or on behalf of, a recipient of public assistance for services that were not rendered;
- (g) Filed a false claim or a claim for nonauthorized items or services under any state or federally funded public assistance program;
- (h) Billed the recipient of public assistance, or his/her family, for an amount in excess of that provided for by law or regulation;
- (i) Failed to credit, return, or pay back to the state or its agents any payments received from Social Security, insurance, or other sources of funds paid or administered by any state agency that were in excess of the approved or listed amount or were received or approved based on fraud or fraudulent conduct;
- (j) In any way, received, attempted to receive, or aided and abetted in the receipt of unauthorized payments or other unauthorized public assistance or authorization or identification to obtain public assistance;
- (k) Converted, charged, accepted, or in any way took any funds administered by a public assistance program in excess of the listed price plus any applicable taxes; **(OR)**
- (l) Received payment that included public assistance funds, in any form, for the purchase of items that were not authorized or were prohibited by state or federal law; **(AND)**

(3) The Defendant did so knowingly.

Public Assistance means money or property provided directly or indirectly to eligible persons through programs of the federal government, the state, or any political subdivision thereof, including any program administered by a public housing authority. [13A-9-150(a)]

[Read as appropriate]:

1. Public assistance fraud includes the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, fraudulent billing or charging, and the stealing of financial instruments, data, and other assets. [13A-9-150(g)]

2. A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense, when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

[Read as appropriate]: The introduction into evidence of a paid state warrant to the order of the defendant is prima facie evidence that the defendant did receive public assistance from the state. [13A-9-150(i)]

[Read as appropriate]: The introduction into evidence of a transaction history generated by a personal identification number (PIN) establishing a purchase or withdrawal by electronic benefit transfer is prima facie evidence that the identified recipient received public assistance from the state. [13A-9-150(j)]

[Read as appropriate]: The value of a food assistance authorization benefit shall be equal to the cash or exchange value unlawfully obtained by the fraudulent act committed. [13A-9-150(f)]

A person acts *knowingly* with respect to conduct or to a circumstance when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

[Read as appropriate]: Three or more violations of this section establish a rebuttable presumption that the defendant knowingly violated this section. [13A-9-150(e)(3)]

[Read as appropriate]:

1. A hospital, or an employee, agent, contractor, subcontractor, or independent contractor of a hospital, or a physician or a physician's employee, agent, contractor, subcontractor, or independent contractor must have specific intent to make a claim or obtain a payment for a health care item or service for which he/she has actual knowledge, as opposed to constructive knowledge, that he/she is not entitled to the claim or payment

or that he/she has actual knowledge that his/her patient is not otherwise entitled to coverage under a public assistance program. [13A-9-150(c)]

2. A *hospital* includes general and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This section shall not apply to county or district health departments. [22-21-20(1)]

3. A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense, when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

[Read as appropriate]:

1. Repayment of public assistance benefits or services or return of authorization or identification wrongfully obtained is not a defense to, or ground for dismissal of, criminal charges brought under this section. However, in situations in which a hospital, or an employee, agent, contractor, subcontractor, or independent contractor of a hospital, or a physician or his/her employee, agent, contractor, subcontractor, or independent contractor has overbilled or received an overpayment for a medical or health care service or improperly charted, coded, or billed for any medical or health care service, common practices, including, but not limited to, repayment, even years later, may use as a defense to, or ground for dismissal of, a prosecution under this section. [13A-9-150(h)]

2. A *hospital* includes general and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group,

professional corporation or professional association practice. This section shall not apply to county or district health departments. [22-21-20(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of public assistance fraud, then you shall find the defendant guilty of public assistance fraud.

If you find that the State has failed to prove any one or more of the elements of the offense of public assistance fraud, then you cannot find the defendant guilty of public assistance fraud.

Use Notes

Punishment depends on the aggregate value of the violation. If the aggregate value is \$200 or more, the violation is a Class C felony. If less than \$200, a Class A misdemeanor. [13A-9-150(e)] Therefore, upon a conviction, the jury must determine the value. A value charge is included above.

[Approved 9-11-15.]