

Ala. Code 1975, § 13A-9-150(m)

Public Assistance Fraud
(Service Provider)

The defendant is charged with public assistance fraud.

A person commits the crime of public assistance fraud if he/she provides service for which compensation is paid under any state or federally funded public assistance program, and solicits, requests, or receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from a recipient of public assistance from a public assistance program, or from the family of the recipient, and fails to notify the Department of Human Resources, on a form provided by the department, of the amount of the payment or contribution and of any other information as specified by the department, within 10 days after the receipt of the payment or contribution, or if the payment or contribution is to become effective at some time in the future, within 10 days of the consummation of the agreement to make the payment or contribution.

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

- (1) The defendant provided service for which compensation is paid under any state or federally funded public assistance program;
- (2) The Defendant solicited, requested, or received, either actually or constructively, payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from a recipient of public assistance from a public assistance program, or from the family of the recipient;
- (3) The Defendant failed to notify the Department of Human Resources, on a form provided by the department, of the amount of the payment or contribution and of any other information as specified by the department,
 - (a) Within 10 days after the receipt of the payment or contribution; **(OR)**
 - (b) If the payment or contribution was to become effective at some time in the future, within 10 days of the consummation of the agreement to make the payment or contribution; **(AND)**
- (4) 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]: *Payment* does not include any copayment paid by a recipient of Medicaid to a medical provider. [13A-9-150(m)(1)]

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)]

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

This section does not apply to a hospital as defined below, that treats Medicaid or Medicare patients, or a physician who treats Medicaid or Medicare patients. [13A-9-150(m)(1)]

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)].

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