

Part 12 Public Assistance Fraud

Superseded 9/1/2024

76-8-1201 Definitions.

As used in this part:

- (1) "Client" means a person who receives or has received public assistance.
- (2) "Overpayment" means the same as that term is defined in Section 35A-3-102.
- (3) "Provider" means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.
- (4) "Public assistance" means the same as that term is defined in Section 35A-1-102.

Amended by Chapter 96, 2024 General Session

Effective 9/1/2024

76-8-1201 Definitions.

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- (4) "Public assistance" means the same as that term is defined in Section 35A-1-102.

Amended by Chapter 366, 2024 General Session

76-8-1203 Required disclosures by an applicant, a recipient, or a provider of public assistance.

- (1) An individual who is 18 years old or older and applies for public assistance, or who is 18 years old or older and currently receives public assistance, shall disclose to the state agency administering the public assistance each fact that may materially affect the individual's eligibility to receive or continue to receive public assistance, including the individual's current:
 - (a) marital status;
 - (b) household composition;
 - (c) employment;
 - (d) earned and unearned income, as defined by rule;
 - (e) receipt of monetary and in-kind gifts that may affect the individual's eligibility;
 - (f) assets that may affect the individual's eligibility; and
 - (g) any other material fact or change in circumstance that may affect the determination of the individual's eligibility to receive public assistance benefits, or may affect the amount of benefits for which the individual is eligible.
- (2)
 - (a) Subject to Subsection (2)(b), a provider that solicits, requests, or receives, actually or constructively, a payment or contribution in the form of an assessment, a payment, a gift, a devise, a bequest, or other means, directly or indirectly, from a client or client's family shall:
 - (i) notify the state agency administering the public assistance to the client of the amount of the payment or contribution the provider received from the client or the client's family; and

- (ii) provide the notification to the state agency in writing within 10 days after the day on which the payment or contribution was received.
- (b) If the payment or contribution described in Subsection (2)(a) is made under an agreement, written or oral, the provider shall notify the state agency administering the public assistance to the client of the payment or contribution within 10 days after the day on which the provider entered into the agreement.
- (3) An actor may be charged under Section 76-8-1203.1, 76-8-1203.3, or 76-8-1203.5 for failing to provide information required under this section.

Amended by Chapter 96, 2024 General Session

76-8-1203.1 Public assistance fraud by an applicant for public assistance.

- (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.
- (2) An actor commits public assistance fraud by an applicant for public assistance if the actor intentionally, knowingly, or recklessly:
 - (a) applies for public assistance; and
 - (b) fails to disclose a material fact required to be disclosed under Subsection 76-8-1203(1).
- (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:
 - (a) a second degree felony if the value is or exceeds \$5,000;
 - (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
 - (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or
 - (d) a class B misdemeanor if the value is less than \$500.
- (4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.
- (5)
 - (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.
 - (b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.
- (6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Enacted by Chapter 96, 2024 General Session

76-8-1203.3 Public assistance fraud by a recipient of public assistance.

- (1)
 - (a) As used in this section, "SNAP benefit" means the same as that term is defined in Section 35A-1-102.
 - (b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.
- (2) An actor commits public assistance fraud by a recipient of public assistance if the actor:
 - (a)
 - (i) except as provided in Subsection (2)(b), is receiving public assistance administered by a state agency; and
 - (ii) intentionally, knowingly, or recklessly fails to disclose to the state agency administering the public assistance to the actor of a change of a material fact required to be disclosed under Subsection 76-8-1203(1) within 10 days after the day on which the change occurred;

- (b)
 - (i) is receiving public assistance from the Department of Workforce Services or the Department of Health and Human Services; and
 - (ii) at the time of a review or recertification, whichever comes first, intentionally, knowingly, or recklessly fails to disclose a change of a material fact required to be disclosed under Subsection 76-8-1203(1);
- (c) in a manner not allowed by law, intentionally, knowingly, or recklessly uses, transfers, acquires, traffics in, falsifies, or possesses:
 - (i) SNAP benefits;
 - (ii) a SNAP benefit identification card;
 - (iii) a certificate of eligibility for medical services;
 - (iv) a Medicaid identification card;
 - (v) a fund transfer instrument;
 - (vi) a payment instrument; or
 - (vii) a public assistance warrant;
- (d)
 - (i) is receiving public assistance;
 - (ii) acquires income or resources in excess of the amount the actor previously reported to the state agency administering the public assistance to the actor; and
 - (iii) fails to notify the state agency to which the actor previously reported within 10 days after the day on which the actor acquired the excess income or resources;
- (e)
 - (i) fails to disclose a material fact required to be disclosed under Subsection 76-8-1203(1) or notify a state agency under Subsection 76-8-1203(2); and
 - (ii)
 - (A) intends to obtain or help another individual obtain an overpayment; or
 - (B) obtains an overpayment, unauthorized payment, or benefit; or
- (f) receives an unauthorized payment or benefit as a result of unlawful acts described in this section, Section 76-8-1203.3, Section 76-8-1203.5, or Section 76-8-1203.7.
- (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:
 - (a) a second degree felony if the value is or exceeds \$5,000;
 - (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
 - (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or
 - (d) a class B misdemeanor if the value is less than \$500.
- (4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.
- (5)
 - (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.
 - (b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.
- (6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.
- (7) Incidents of trafficking in SNAP benefits that occur within a six-month period, committed by an individual or coconspirators, are deemed to be a related series of facts and circumstances regardless of whether the transactions are conducted with a variety of unrelated parties.

Enacted by Chapter 96, 2024 General Session

76-8-1203.5 Public assistance fraud by a provider.

- (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.
- (2) An actor commits public assistance fraud by a provider if the actor:
 - (a) is a provider; and
 - (b) intentionally, knowingly, or recklessly:
 - (i) receives a payment after failing to comply with the requirements in Subsection 76-8-1203(1) or 76-8-1203(2);
 - (ii) files a claim for payment under a state or federally funded public assistance program for goods or services not provided to or for a client under that program;
 - (iii) files or falsifies a claim, report, or document required by a state or federal law, a rule, or a provider agreement for goods or services not authorized under the state or federally funded public assistance program for which the goods or services were provided;
 - (iv) fails to credit the state for payments received from other sources;
 - (v) bills a client, or the client's family, for:
 - (A) goods or services not provided; or
 - (B) an amount greater than that allowed by law or rule; or
 - (vi) fails to comply with the notification requirements under Subsection 76-8-1203(2).
- (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:
 - (a) a second degree felony if the value is or exceeds \$5,000;
 - (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
 - (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or
 - (d) a class B misdemeanor if the value is less than \$500.
- (4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.
- (5)
 - (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.
 - (b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.
- (6) This section does not apply to offenses by providers under the state's Medicaid program that are actionable under Title 26B, Chapter 3, Part 11, Utah False Claims Act.
- (7) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Enacted by Chapter 96, 2024 General Session

76-8-1203.7 Fraudulently misappropriating public assistance funds.

- (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.
- (2) An actor commits fraudulently misappropriating public assistance funds if the actor:
 - (a)
 - (i) is an administrator of a state or federally funded public assistance program; and
 - (ii) while performing the actor's duties as an administrator, intentionally, knowingly, or recklessly fraudulently misappropriates funds exchanged for:

- (A) SNAP benefits;
 - (B) an identification card;
 - (C) a certificate of eligibility for medical services;
 - (D) a Medicaid identification card; or
 - (E) other public assistance the actor has been entrusted with or that has come into the actor's possession as a result of the actor's duties; or
- (b)
- (i) is an individual entrusted with:
 - (A) SNAP benefits;
 - (B) an identification card;
 - (C) a certificate of eligibility for medical services;
 - (D) a Medicaid identification card; or
 - (E) other public assistance with which the individual has been entrusted; and
 - (ii) intentionally, knowingly, or recklessly fraudulently misappropriates funds exchanged for a benefit described in Subsection (2)(b)(i) with which the individual has been entrusted.
- (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:
- (a) a second degree felony if the value is or exceeds \$5,000;
 - (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
 - (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or
 - (d) a class B misdemeanor if the value is less than \$500.
- (4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.
- (5)
- (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.
 - (b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.
- (6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Enacted by Chapter 96, 2024 General Session

76-8-1207 Evidence in criminal actions for public assistance fraud.

In a criminal action under this part:

- (1) a paid state warrant made to the order of an individual or a payment made through an electronic benefit card issued to an individual constitutes prima facie evidence that the individual received financial assistance from the state; and
- (2) all of the records in the custody of the state agency administering public assistance relating to the application for, verification of, issuance of, receipt of, and use of public assistance constitute records of regularly conducted activity within the meaning of the exceptions to the hearsay rule of evidence.

Amended by Chapter 96, 2024 General Session