

# Georgia

## I. Government Funded Indigent Care

Georgia indigent care laws are numerous, but weak, and plagued with exceptions. Georgia law contains a substantial number of provisions that allow, but do not require, state and county officials to provide medical care to the indigent. As a result, medical care for the indigent in Georgia have hinged on the willingness of state and local legislators to make entirely discretionary appropriations for their care. Not surprisingly, in large part, these appropriations have not been forthcoming.

### A. Georgia's Poor Law

Georgia's poor law has long charged the counties with "general supervision of all paupers."<sup>1</sup> While the meaning of this provision is unclear, limitations contained in the law suggest that the counties have some duty to provide for the poor. Individuals who are able to maintain themselves through labor are not entitled to county benefits<sup>2</sup> Presumably, individuals who are unable to provide for their own needs are entitled to some assistance from the county. However, the existent and extent of this obligation have not settled through judicial interpretation.

### B. Indigent Care Trust Fund

Georgia law authorizes the creation of an Indigent Care Trust Fund (ICTF) to be used for primary care health programs, for expansion of Medicaid eligibility and to support providers, especially in rural areas, who disproportionately serve the indigent.<sup>3</sup> The Legislature is authorized to make appropriations to this fund, which may also accept donations from other sources. Amounts deposited into the trust fund are to be used only for indigent health care.

Hospitals that receive payment from the ICTF are required to treat indigent patients without regard to their ability to pay.<sup>4</sup> ICTF hospitals must adopt sliding fee schedules for individuals with family incomes of 185 percent of the Federal Poverty Level and must refrain from charging individuals with

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<sup>1</sup>Ga. Code Ann. § 36-12-1.

<sup>2</sup>Ga. Code Ann. § 36-12-2. In addition, the parents and children of paupers have a duty to support them. Ga. Code Ann. § 36-12-1.

<sup>3</sup>Ga. Const. § Art. III, § 9, ¶ 6; Ga. Code Ann. § 31-8-150.

<sup>4</sup>Rules of the Department of Medical Assistance § 350-6-.03 (3)(a)8. In addition, ICTF hospitals must use no less than fifteen percent of these payments for primary care services to prevent, diagnose or provide initial treatment for injury, disability, or illness, or to provide access to such services. Rules of the Department of Medical Assistance § 350-6-.03 (3)(a)11. Primary health services include pediatric cardiac services, diagnostic testing for indigent patients, mammography screening, oncology screening, community education, health screening clinics, nurse midwifery programs, health clinics and feasibility studies.

family incomes of 125 percent or less of the Federal Poverty Level. ICTF hospitals are required to notify patients of the availability of below cost and no-cost services and provide them with an opportunity to appeal decisions denying eligibility for charity care.

### C. Hospital Care for the Indigent Program

Georgia law authorizes the state to provide matching funds to the counties for hospital care to the indigent.<sup>5</sup> The state's annual share of these costs is limited to \$1 per capita in those counties that choose to participate in this program. Counties must meet their pro rata share of these costs, submit a budget estimating their needs and establish a program to screen patients for financial eligibility. Patients must reside in the county for at least six months in order to qualify for reimbursement for care, with the exception of reimbursement for emergency care.<sup>6</sup>

To date, this program has never received state funding. While some counties use local revenues to reimburse hospitals for charity care, they have done so without state assistance.

### D. Hospital Care for Non-Resident Indigents

State law authorizes the creation of a state fund to pay hospitals for the care of indigent patients who reside in counties within Georgia other than the county in which they have received care.<sup>7</sup> To receive funds under this program, hospitals must notify county officials within fifteen days of the provision of care to a non-resident indigent patient. County officials are required to determine whether the patient meets standards of indigency established by the state. At the end of the year, each hospital may make claims for state reimbursement of the uncompensated costs of caring for non-resident indigents. The Commissioner of Human Resources notifies the General Assembly of the amount of these costs and authorizes payment to hospitals on a pro rata basis, based upon the amount of money that the General Assembly chooses to appropriate for the Non-Resident Indigent Fund.<sup>8</sup>

This program also exists only on paper. While Georgia officials use this program to collect data on the amount of charity care provided by hospitals, the legislature has never appropriated funds in order to provide reimbursement for indigent care.

### E. Hospital Authorities

Under Georgia's Constitution, counties have authority to contract for the provision of care to the indigent sick and may acquire land and establish and maintain facilities to accomplish this purpose.<sup>9</sup> Georgia statutes create hospital authorities in every county and municipality within the state that are

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<sup>5</sup>Ga. Code Ann. § 31-8-1 *et seq.*

<sup>6</sup>Ga. Code Ann. § 31-8-7.

<sup>7</sup>Ga. Code Ann. § 31-8-30 *et seq.*

<sup>8</sup>Ga. Code Ann. §§ 31-8-34 and 31-8-35.

<sup>9</sup>Ga. Const. § Art. IX, § 3, ¶ 1(c).

empowered to establish, maintain, and dispose of health facilities.<sup>10</sup> In addition, hospital authorities are authorized to levy an ad valorem tax of seven mills to provide medical care and hospitalization to the poor.<sup>11</sup> Georgia's courts have upheld the constitutionality of these provisions against claims that they unconstitutionally favored the poor, noting that the care of the poor "is a public responsibility, relating to society in general, and may affect the peace, health, morals and security of the public at large."<sup>12</sup>

#### F. Hospital Care for Pregnant Women

Georgia law contains only one program that mandates counties to provide for the care of indigent patients. The limited scope of this law provides an indication of the extremely limited nature of indigent health care services within the State of Georgia.

Under Georgia law, hospitals that have emergency facilities are required to provide emergency services to women who come to their facilities in active labor.<sup>13</sup> Hospitals may only transfer women in active labor to other facilities if they are stabilized, if the hospital has arranged for the receiving hospital to accept the patient, if the hospital has arranged for suitable transportation, and if the hospital has sent available information on the patient's history to the receiving hospital.

A hospital providing care required by this law to an indigent patient is entitled to reimbursement from the county to the extent that reimbursement is not available from Medicare, Medicaid, or any other source. The Commissioner of Human Resources is empowered to adopt statewide standards for indigence, which provide state reimbursement for the treatment of women who have family incomes of 125 percent or less of the federal poverty line. Patients and their families are liable to the county for the county's costs of the care they have received.<sup>14</sup>

Hospitals are immune from malpractice for treatment provided under this statute except in cases of gross negligence.<sup>15</sup> However, hospitals that violate this section are liable for damages.

Even this relatively minor fiscal obligation has been challenged by Georgia's counties. In 1987, the Georgia Supreme Court upheld the constitutionality of the statute against claims that it unconstitutionally required counties to exercise authority outside their own borders.<sup>16</sup>

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<sup>10</sup>Ga. Code Ann. §§ 31-7-70.

<sup>11</sup>Ga. Code Ann. § 31-7-84.

<sup>12</sup>*DeJarnette v. Hospital Authority of Albany*, 23 S.E.2d 718, 722 (Ga. 1942).

<sup>13</sup>Ga. Code Ann. § 31-8-42.

<sup>14</sup>Ga. Code Ann. § 31-8-43.1. If the patient's family income is less than 100 percent of the federal poverty level, their liability is limited to \$100.

<sup>15</sup>Ga. Code Ann. § 31-8-44.

<sup>16</sup>*Terrell County v. Albany/Dougherty Hospital Authority*, 352 S.E.2d 378. The court also rejected arguments that the statute could require the county to pay twice for the same services, that the indigency

### G. Sales of Public Hospitals

Under Georgia law, the proceeds from the sale of a publicly owned hospital must be held in an irrevocable trust for provision of care to indigent patients with family incomes of 125 percent or less of the federal poverty level.<sup>17</sup> The General Assembly has made a special exception for a lease-purchase agreement made by one hospital authority based upon the written commitment of a for-profit purchaser that it would provide the same amount of indigent care services that would be available through the creation of a trust fund.<sup>18</sup>

### H. Other Services

The state has established programs for the diagnosis and treatment of indigent cancer patients.<sup>19</sup> The state maintains another program of assistance for patients suffering from chronic renal disease.<sup>20</sup> The state provides testing and treatment for infant metabolic disorders<sup>21</sup> and for sickle cell anemia.<sup>22</sup> The Department of Human Resources is charged with responsibility for a wide range of public health functions, including treatment of communicable disease, forestalling medical conditions that could be injurious to health, detecting and relieving physical defects, treating emotional disease and promoting dental health.<sup>23</sup> In addition, through the Department of Human Resources, the state provides mental health treatment, habilitation services for the mentally retarded and hospitalization for alcoholism.<sup>24</sup>

County boards of health also provide a variety of health services, mostly of a preventive nature. These boards are allowed to charge fees, but they may not refuse services to anyone because of inability to pay.<sup>25</sup>

While the state maintains hospitals for the care of individuals suffering from these conditions, it has enacted provisions that clearly show its intention to be the payor of last resort. Patients must exhaust

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standards adopted by the Commissioner of Human Resources were unreasonable, and that the patient's execution of a promissory note discharged the county's obligation to the hospital.

<sup>17</sup>Ga. Code Ann. § 31-7-75.1.

<sup>18</sup>Ga. Code Ann. § 31-7-75.1(d)(3).

<sup>19</sup>Ga. Code Ann. § 31-15-1 *et seq.*

<sup>20</sup>Ga. Code Ann. § 31-16-2.

<sup>21</sup>Ga. Code Ann. § 31-12-6.

<sup>22</sup>Ga. Code Ann. § 31-12-7.

<sup>23</sup>Ga. Code Ann. § 31-2-1.

<sup>24</sup>Ga. Code Ann. § 37-2-1 *et seq.*

<sup>25</sup>Ga. Code Ann. § 31-3-4(a)(6).

eligibility under all other programs before seeking state payment for their care.<sup>26</sup> The state may seek reimbursement from all tangible and intangible property owned by the patient and his family, as well as property disposed of within the ninety days immediately preceding hospitalization.<sup>27</sup> Only the patient's principal residence and other real property that is exempt from levy under Georgia law are exempted from liability for state claims for reimbursement.

## II. Government Imposed Obligations for Provider Financed Care

### A. Uncompensated Care Obligations

Georgia's certificate of need regulations require health facilities that wish to expand their facilities to make a written commitment that they will annually allocate funds for charity care equal to at least three percent of gross revenues.<sup>28</sup> The State Health Planning and Development Agency is also authorized to require facilities to agree to provide a specified volume of clinical health services to the indigent as a condition of receiving a certificate of need.<sup>29</sup> As previously discussed, hospitals that accept Indigent Care Trust Fund monies also are required to provide care to all indigent patients.

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<sup>26</sup>Ga. Code Ann. § 37-9-9.

<sup>27</sup>Ga. Code Ann. § 37-9-8(a).

<sup>28</sup>Ga. Adm. Code § 272-2-.03(4)(f)2.(i).

<sup>29</sup>Ga. Code Ann. § 31-6-40.1(c).