

N.C.P.I.-Crim. 219.11
FRAUDULENT MISREPRESENTATION INVOLVING CHILD CARE SUBSIDIES.
FELONY; MISDEMEANOR.
GENERAL CRIMINAL VOLUME
APRIL 2000
N.C. Gen. Stat. § 110-107

219.11 FRAUDULENT MISREPRESENTATION INVOLVING CHILD CARE
SUBSIDIES.¹ FELONY; MISDEMEANOR.²

The defendant has been charged with fraudulent misrepresentation involving child care subsidies.³

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant⁴ [made a false [statement] [representation] regarding a material fact] (or) [failed to disclose a material fact].

Second, that this [false [statement] [representation] regarding a material fact] (or) [failure to disclose a material fact] was calculated and intended to deceive.

Third, that the defendant thereby [obtained] [attempted to obtain] [continues to obtain] a child care subsidy for [himself] [herself] [another person].

And Fourth, that the child care subsidy involved was more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [made a false [statement] [representation] regarding a material fact] [failed to disclose a material fact], that this was calculated and intended to deceive, that the defendant thereby [obtained] [attempted to obtain] [continues to obtain] a child care subsidy for [himself] [herself] [another person], and that the child care subsidy involved was more than \$1,000, it would be your duty to return a verdict of guilty of felonious misrepresentation involving child

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care subsidies. If you do not so find or have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of felonious fraudulent misrepresentation involving child care subsidies, but will consider whether the defendant is guilty of misdemeanor fraudulent misrepresentation involving child care subsidies.⁵ The misdemeanor differs from the felony in that the subsidy involved need not be more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [made a false [statement] [representation] regarding a material fact] [failed to disclose a material fact], that this was calculated and intended to deceive, and that the defendant thereby [obtained] [attempted to obtain] [continues to obtain] a child care subsidy for [himself] [herself] [another person], it would be your duty to return a verdict of guilty of misdemeanor fraudulent misrepresentation involving child care subsidies. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. N.C. Gen. Stat. § 110-107(c) defines child care subsidy as the use of public funds to pay for day care services for children.

2. N.C. Gen. Stat. § 110-107(b) states that "If the child care subsidy is not more than one thousand dollars (\$1,000), the person is guilty of a Class 1 misdemeanor. If the child care subsidy is more than one thousand dollar (\$1,000), the person is guilty of a Class I felony."

3. This section applies whether the defendant is a provider or recipient of child care subsidies or someone claiming to be a provider or recipient of child care subsidies.

4. N.C. Gen. Stat. § 110-107(c) states that the defendant could be an individual, association, consortium, corporation, body politic, partnership, or other group, entity, or organization.

5. If there is to be no instruction on lesser included offenses, the last phrase should

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be: ". . . it would be your duty to return a verdict of not guilty."