
By: **Senator Middleton**

Introduced and read first time: January 31, 2003

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Inmate Health Care Expenses - Payment Rates**

3 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to adopt
4 regulations that set payment rates for outpatient health care services provided
5 to inmates confined in State or local correctional facilities; requiring the
6 Secretary to set certain payment rates annually; prohibiting certain payment
7 rates set by the Secretary from exceeding a certain amount; requiring the
8 payment of health care expenses of inmates in State correctional facilities to be
9 made in accordance with a certain provision of law; requiring the county from
10 which an inmate was committed to make payment for health care expenses in
11 accordance with certain provisions of law; defining certain terms; and generally
12 relating to payment rates for outpatient health care services provided to
13 inmates confined in State or local correctional facilities.

14 BY repealing and reenacting, without amendments,
15 Article - Correctional Services
16 Section 9-601(a), (b), and (c) and 9-602(a)
17 Annotated Code of Maryland
18 (1999 Volume and 2002 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Correctional Services
21 Section 9-601(d) and 9-602(f)
22 Annotated Code of Maryland
23 (1999 Volume and 2002 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article - Health - General
26 Section 16-203
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2002 Supplement)

29 BY repealing and reenacting, with amendments,

1 Article - Health - General
2 Section 16-101 and 16-201
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2002 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Correctional Services**

8 9-601.

9 (a) If a representation is made to the managing official of a correctional
10 facility in the Division of Correction that an inmate in the correctional facility is
11 pregnant and about to give birth, the managing official:

12 (1) a reasonable time before the anticipated birth, shall make an
13 investigation; and

14 (2) if the facts require, shall recommend through the Division of
15 Correction that the Governor exercise executive clemency.

16 (b) Without notice, the Governor may:

17 (1) parole the inmate;

18 (2) commute the inmate's sentence; or

19 (3) suspend the execution of the inmate's sentence for a definite period or
20 from time to time.

21 (c) If the Governor suspends the execution of an inmate's sentence, the
22 managing official of the correctional facility:

23 (1) a reasonable time before the anticipated birth, shall have the inmate
24 transferred from the correctional facility to another facility that provides comfortable
25 accommodations, maintenance, and medical care under supervision and safeguards
26 that the managing official determines necessary to prevent the inmate's escape from
27 custody; and

28 (2) shall require the inmate to be returned to the correctional facility as
29 soon after giving birth as the inmate's health allows.

30 (d) (1) The expenses of an inmate's accommodation, maintenance, and
31 medical care incurred as a result of the inmate's transfer under subsection (c)(1) of
32 this section shall be paid:

33 (i) by the inmate;

34 (ii) by relatives or friends of the inmate; or

1 (iii) from any available fund that may be used to pay the hospital
2 expenses of an inmate in the correctional facility IN ACCORDANCE WITH § 16-201 OF
3 THE HEALTH - GENERAL ARTICLE.

4 (2) ANY PAYMENT BY THE STATE FOR THE EXPENSES OF AN INMATE'S
5 ACCOMMODATION, MAINTENANCE, AND MEDICAL CARE INCURRED AS A RESULT OF
6 THE INMATE'S TEMPORARY REMOVAL UNDER THIS SECTION SHALL BE PAID IN
7 ACCORDANCE WITH § 16-201 OF THE HEALTH - GENERAL ARTICLE.

8 (3) If money is not available under any of the sources identified in
9 paragraph (1) of this subsection to pay the specified expenses:

10 (i) the county from which the inmate was committed is responsible
11 for payment of the expenses IN ACCORDANCE WITH § 16-201 OF THE HEALTH -
12 GENERAL ARTICLE; and

13 (ii) the managing official of the correctional facility to which the
14 inmate was committed shall collect payment in accordance with Title 16 of the Health
15 - General Article.

16 9-602.

17 (a) Whenever the Division of Correction determines that an inmate in a
18 correctional facility in the Division is ill and the facilities of the correctional facility
19 are inadequate to provide treatment for the illness, the Division may direct the
20 managing official of the correctional facility to order the temporary removal of the
21 inmate from the correctional facility to a facility in the State in which the inmate may
22 receive adequate treatment.

23 (f) (1) The expenses of an inmate's accommodation, maintenance, and
24 medical care incurred as a result of the inmate's temporary removal under this
25 section shall be paid:

26 (i) by the inmate;

27 (ii) by relatives or friends of the inmate; or

28 (iii) from any available fund that may be used to pay the hospital
29 expenses of an inmate in the correctional facility IN ACCORDANCE WITH § 16-201 OF
30 THE HEALTH - GENERAL ARTICLE.

31 (2) ANY PAYMENT BY THE STATE FOR THE EXPENSES OF AN INMATE'S
32 ACCOMMODATION, MAINTENANCE, AND MEDICAL CARE INCURRED AS A RESULT OF
33 THE INMATE'S TEMPORARY REMOVAL UNDER THIS SECTION SHALL BE PAID IN
34 ACCORDANCE WITH § 16-201 OF THE HEALTH - GENERAL ARTICLE.

35 (3) If money is not available under any of the sources identified in
36 paragraph (1) of this subsection to pay the specified expenses:

1 (i) the county from which the inmate was committed shall be billed
2 for payment of the expenses IN ACCORDANCE WITH TITLE 16 OF THE HEALTH -
3 GENERAL ARTICLE; and

4 (ii) the managing official of the correctional facility to which the
5 inmate was committed shall collect payment in accordance with Title 16 of the Health
6 - General Article.

7 **Article - Health - General**

8 16-101.

9 (a) In this title the following words have the meanings indicated.

10 (b) (1) As to a recipient of services under the Maryland Mental Retardation
11 and Developmental Disabilities Law, a word used in this title has the same meaning
12 as is indicated by a definition of the word in § 7-101 of this article.

13 (2) As to a recipient of services under the Maryland Mental Hygiene
14 Law, a word used in this title has the same meaning as is indicated by a definition of
15 the word in § 10-101 of this article.

16 (c) "Chargeable person" means:

17 (1) Any responsible relative;

18 (2) Except for a recipient of services, any other person who is legally
19 responsible for the care of the individual; and

20 (3) Any person who maintains a policy of health insurance under which a
21 recipient of services is insured.

22 (d) "CORRECTIONAL FACILITY" HAS THE MEANING STATED IN § 1-101 OF THE
23 CORRECTIONAL SERVICES ARTICLE.

24 (E) (1) "Cost of care" means the cost of care, maintenance, treatment, and
25 support of a recipient of services.

26 (2) "Cost of care" includes the cost of:

27 (i) An evaluation of an individual required under the Maryland
28 Developmental Disabilities Law; and

29 (ii) Any juvenile screening or treatment service provided to an
30 individual under Article 83C, § 2-118(b)(1)(ii) of the Code.

31 (F) "INMATE" HAS THE MEANING STATED IN § 1-101 OF THE CORRECTIONAL
32 SERVICES ARTICLE.

1 [(e)] (G) (1) "Recipient of services" means an individual who receives care,
2 maintenance, treatment, or support in a facility or program that is operated or funded
3 wholly or partly by the Department.

4 (2) "Recipient of services" includes:

5 (i) An individual in a public facility under the Maryland Mental
6 Hygiene Law;

7 (ii) An individual in a facility for an evaluation required under the
8 Maryland Developmental Disabilities Law;

9 (iii) An individual in a residential, public facility or a facility from
10 which this State obtains residential care under the Maryland Developmental
11 Disabilities Law;

12 (iv) An individual to whom juvenile screening or treatment services
13 are provided under Article 83C, § 2-118(b)(1)(ii) of the Code; and

14 (v) An individual in a private therapeutic group home from which
15 this State obtains residential care under the Maryland Mental Hygiene Law.

16 [(f)] (H) "Responsible relative" means:

17 (1) The spouse of a recipient of services;

18 (2) The parents of a recipient of services who is a minor; and

19 (3) The children of a recipient of services.

20 16-201.

21 (a) The Secretary shall adopt rules and regulations that set charges for
22 services that the Department provides for the physically ill, aged, mentally
23 disordered, mentally retarded, and developmentally disabled and other recipients of
24 services in or through State-operated:

25 (1) Clinics;

26 (2) Day care, day treatment, and day hospital care;

27 (3) Group homes and small residential homes;

28 (4) Inpatient care in regional and State hospitals and centers; and

29 (5) Inpatient and outpatient care of any other kind.

30 (b) The Secretary shall require political subdivisions and grantees to set,
31 subject to approval and modifications of the Secretary, charges for services that are
32 provided by the political subdivisions or grantees and that are supported wholly or
33 partly by State or federal funds administered by the Department.

1 (c) Charges for services shall be set at least annually.

2 (d) If the Secretary considers it to be in the best interest of the public health,
3 the Secretary may designate specific services for which a charge may not be made.

4 (E) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE
5 SECRETARY SHALL ADOPT REGULATIONS THAT SET PAYMENT RATES FOR
6 OUTPATIENT HEALTH CARE SERVICES PROVIDED TO INMATES CONFINED IN STATE
7 OR LOCAL CORRECTIONAL FACILITIES, REGARDLESS OF WHETHER THE INMATE HAS
8 BEEN SENTENCED.

9 (2) THE PAYMENT RATES SET BY THE SECRETARY SHALL BE SET
10 ANNUALLY AND MAY NOT EXCEED 100% OF THE RATE PAID BY THE MEDICARE
11 PROGRAM, AS PUBLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID
12 SERVICES, FOR THE SAME SERVICE.

13 16-203.

14 (a) (1) The cost of care of a recipient of services shall be determined in
15 accordance with the charges for services set under § 16-201 of this subtitle.

16 (2) Except as otherwise provided in this title:

17 (i) Payment for this cost of care shall be made by the recipient of
18 services or a chargeable person;

19 (ii) Their liability for this payment is joint and several; and

20 (iii) The insured or policyholder may not withhold the payment and
21 shall assign to the Department any benefits available under the policy for services
22 rendered by the Department to any insured covered by the policy.

23 (3) Liability may not be imposed under this title on any spouse or child of
24 a recipient of services, if the spouse or child has been abandoned by the recipient of
25 services. The Department shall adopt rules and regulations that define abandonment
26 for the purposes of this subsection.

27 (4) Liability may not be imposed under this title on a responsible relative
28 if any responsible relative has been the victim of sexual abuse, physical abuse, or a
29 crime of violence as defined in § 14-101 of the Criminal Law Article perpetrated by
30 the recipient of services. The Department shall adopt regulations that define "sexual
31 abuse, physical abuse, or a crime of violence" as defined in § 14-101 of the Criminal
32 Law Article for the purposes of this paragraph.

33 (b) (1) The Department:

34 (i) Shall set the time and amount of payments; and

35 (ii) May change its orders as to payments, as circumstances may
36 warrant.

1 (2) In setting the amount of payments, the Department:

2 (i) Shall consider the financial means and abilities of the recipient
3 of services and any chargeable person; and

4 (ii) May agree to accept less than the charges set for the services
5 provided.

6 (c) (1) In this subsection, "total lifetime hospitalization" means the sum
7 total of all periods of inpatient hospitalization for a recipient of services in any State
8 hospital or facility whether these periods are intermittent or continuous.

9 (2) If a chargeable person has paid for the first 24 months of total
10 lifetime hospitalization of a recipient of services, the liability of that chargeable
11 person for care of the recipient of services after that period may not exceed 15 percent
12 of the charges for services set under § 16-201 of this subtitle.

13 (3) The sum of any proceeds of applicable insurance, group health plan,
14 or prepaid medical care that the insurer or plan pays because of liability for the
15 payment of or repayment for the cost of care provided to the recipient of services does
16 not count as payments paid by a chargeable person for the purpose of determining the
17 total lifetime hospitalization of a recipient of services.

18 (d) The Department may set the amount of payments retroactively:

19 (1) For a period of not more than 6 months from the date when the
20 Department sets the amount of payments; and

21 (2) After inquiry by the Department, for a greater period, if:

22 (i) The recipient of services, the responsible relatives of the
23 recipient, or any other person, agency, or organization that has a summary of
24 financial, medical, or psychological diagnoses about the recipient of services has failed
25 or refused to give that information to the Department when the obtaining and use of
26 this information is connected to the Department's billing and collection functions
27 under this subtitle; or

28 (ii) Any charges assessed third party insurers have been denied
29 wholly or partly.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2003.