
By: **Senator Middleton**
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Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 ~~State and Local Inmate Health Care Expenses -- Payment Rates~~
3 ~~Study of Health Care Cost Reductions for State and County Inmate~~
4 ~~Populations~~

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

16 FOR the purpose of requiring the Department of Health and Mental Hygiene and the
17 Department of Public Safety and Correctional Services to study whether savings
18 can be achieved from health care cost reductions for State and county inmate
19 populations; requiring the departments to study how the federal government
20 reimburses health care providers for certain health care costs provided to
21 federal inmate populations; requiring the departments to study certain health
22 care cost reduction options for State and county inmate populations; requiring
23 the departments to make recommendations regarding options to lower the costs
24 of health care for State and county inmate populations; requiring the
25 departments to study the impact certain recommendations will have on
26 providers who offer certain health care services to State and county inmate
27 populations; requiring a report by a certain date; providing for the termination

1 of this Act; and generally relating to a study of health care cost reductions for
 2 State and county inmate populations.

3 ~~BY repealing and reenacting, without amendments,~~
 4 ~~Article—Correctional Services~~
 5 ~~Section 9-601(a), (b), and (c) and 9-602(a)~~
 6 ~~Annotated Code of Maryland~~
 7 ~~(1999 Volume and 2002 Supplement)~~

8 ~~BY repealing and reenacting, with amendments,~~
 9 ~~Article—Correctional Services~~
 10 ~~Section 9-601(d) and 9-602(f)~~
 11 ~~Annotated Code of Maryland~~
 12 ~~(1999 Volume and 2002 Supplement)~~

13 ~~BY repealing and reenacting, without amendments,~~
 14 ~~Article—Health—General~~
 15 ~~Section 16-203~~
 16 ~~Annotated Code of Maryland~~
 17 ~~(2000 Replacement Volume and 2002 Supplement)~~

18 ~~BY repealing and reenacting, with amendments,~~
 19 ~~Article—Health—General~~
 20 ~~Section 16-101 and 16-201~~
 21 ~~Annotated Code of Maryland~~
 22 ~~(2000 Replacement Volume and 2002 Supplement)~~

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

25 ~~Article—Correctional Services~~

26 ~~9-601.~~

27 (a) ~~If a representation is made to the managing official of a correctional~~
 28 ~~facility in the Division of Correction that an inmate in the correctional facility is~~
 29 ~~pregnant and about to give birth, the managing official:~~

30 (1) ~~a reasonable time before the anticipated birth, shall make an~~
 31 ~~investigation; and~~

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

34 (b) ~~Without notice, the Governor may:~~

- 1 (1) parole the inmate;
- 2 (2) commute the inmate's sentence; or
- 3 (3) suspend the execution of the inmate's sentence for a definite period or
4 from time to time.

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

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

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

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

17 (i) by the inmate;

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

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

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

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

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

31 (ii) the managing official of the correctional facility to which the
32 inmate was committed shall collect payment in accordance with Title 16 of the Health
33 General Article.

34 9-602.

35 (a) Whenever the Division of Correction determines that an inmate in a
36 correctional facility in the Division is ill and the facilities of the correctional facility

1 are inadequate to provide treatment for the illness, the Division may direct the
 2 managing official of the correctional facility to order the temporary removal of the
 3 inmate from the correctional facility to a facility in the State in which the inmate may
 4 receive adequate treatment.

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

8 (i) by the inmate;

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

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

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

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

19 (i) the county from which the inmate was committed shall be billed
 20 for payment of the expenses IN ACCORDANCE WITH TITLE 16 OF THE HEALTH –
 21 GENERAL ARTICLE; and

22 (ii) the managing official of the correctional facility to which the
 23 inmate was committed shall collect payment in accordance with Title 16 of the Health
 24 –General Article.

25 **Article – Health – General**

26 16-101.

27 (a) In this title the following words have the meanings indicated:

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

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

34 (c) "Chargeable person" means:

35 (1) Any responsible relative;

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

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

5 ~~(d) "CORRECTIONAL FACILITY" HAS THE MEANING STATED IN § 1-101 OF THE~~
6 ~~CORRECTIONAL SERVICES ARTICLE.~~

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

9 ~~(2) "Cost of care" includes the cost of:~~

10 ~~(i) An evaluation of an individual required under the Maryland~~
11 ~~Developmental Disabilities Law; and~~

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

14 ~~(F) "INMATE" HAS THE MEANING STATED IN § 1-101 OF THE CORRECTIONAL~~
15 ~~SERVICES ARTICLE.~~

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

19 ~~(2) "Recipient of services" includes:~~

20 ~~(i) An individual in a public facility under the Maryland Mental~~
21 ~~Hygiene Law;~~

22 ~~(ii) An individual in a facility for an evaluation required under the~~
23 ~~Maryland Developmental Disabilities Law;~~

24 ~~(iii) An individual in a residential, public facility or a facility from~~
25 ~~which this State obtains residential care under the Maryland Developmental~~
26 ~~Disabilities Law;~~

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

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

31 ~~[(f)] (H) "Responsible relative" means:~~

32 ~~(1) The spouse of a recipient of services;~~

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

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

2 ~~16-201.~~

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

7 (1) Clinics;

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

9 (3) Group homes and small residential homes;

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

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

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

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

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

19 (E) (1) ~~SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE~~
20 ~~SECRETARY SHALL ADOPT REGULATIONS THAT SET PAYMENT RATES FOR~~
21 ~~OUTPATIENT HEALTH CARE SERVICES PROVIDED TO INMATES CONFINED IN STATE~~
22 ~~OR LOCAL CORRECTIONAL FACILITIES, REGARDLESS OF WHETHER THE INMATE HAS~~
23 ~~BEEN SENTENCED.~~

24 (2) ~~THE PAYMENT RATES SET BY THE SECRETARY SHALL BE SET~~
25 ~~ANNUALLY AND MAY NOT EXCEED 100% OF THE RATE PAID BY THE MEDICARE~~
26 ~~PROGRAM, AS PUBLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID~~
27 ~~SERVICES, FOR THE SAME SERVICE.~~

28 ~~16-203.~~

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

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

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

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

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

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

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

14 (b) (1) The Department:

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

16 (ii) May change its orders as to payments, as circumstances may
17 warrant.

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

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

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

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

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

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

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

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

- 1 (2) After inquiry by the Department, for a greater period, if:
- 2 (i) ~~The recipient of services, the responsible relatives of the~~
3 ~~recipient, or any other person, agency, or organization that has a summary of~~
4 ~~financial, medical, or psychological diagnoses about the recipient of services has failed~~
5 ~~or refused to give that information to the Department when the obtaining and use of~~
6 ~~this information is connected to the Department's billing and collection functions~~
7 ~~under this subtitle; or~~
- 8 (ii) ~~Any charges assessed third-party insurers have been denied~~
9 ~~wholly or partly.~~
- 10 (a) The Department of Health and Mental Hygiene and the Department of
11 Public Safety and Correctional Services shall study whether savings can be achieved
12 from health care cost reductions for State and county inmate populations.
- 13 (b) The departments shall:
- 14 (1) review the federal law that impacts how the federal government
15 reimburses health care providers for out of facility health care services provided to
16 federal inmate populations;
- 17 (2) study options for reducing health care costs of State and county
18 inmate populations that include:
- 19 (i) mandating a fee schedule for payment of health care services by
20 the State and county governments consistent with the State Medicaid fee schedule or
21 the federal Medicare fee schedule;
- 22 (ii) creating a network of health care providers in the State to serve
23 as a preferred provider network and lower health care costs;
- 24 (iii) enhancing the utilization review process for health care
25 services;
- 26 (iv) improving screening of long-term inmates;
- 27 (v) creating a quasi-public managed care organization to provide
28 health care services for the inmate population; and
- 29 (vi) using an information management system to capture health
30 care service information and to accurately identify trends regarding the treatment of
31 inmates;
- 32 (3) make recommendations regarding options to lower the costs of health
33 care for State and county inmate populations; and
- 34 (4) study how the recommendations made in item (3) of this subsection
35 will impact providers who offer out of facility health care services to State and county
36 inmate populations.

1 (c) The departments shall report the findings and recommendations to the
2 Governor, and, subject to § 2-1246 of the State Government Article, the General
3 Assembly, on or before December 1, 2003.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 ~~July 1, 2003~~ June 1, 2003. It shall remain effective for a period of 7 months and, at the
6 end of December 31, 2003, with no further action required by the General Assembly,
7 this Act shall be abrogated and of no further force and effect.