

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 761

(Senator Pugh, *et al.*)

Judicial Proceedings and Finance

Health and Government Operations and Judiciary

**Mental Health - Local Correctional Facilities - Incarcerated Individuals with
Mental Illness**

This bill requires the managing official at a local correctional facility to, upon release, provide an inmate diagnosed with a mental illness access to a 30-day supply of medication for his or her mental illness. Part of the supply may be provided by prescription if the inmate is provided sufficient medication on release to remain medication-compliant until the prescription can be filled. The requirement only applies to an inmate who has been incarcerated in a local correctional facility for at least 60 days, and only if a treating physician determines that the possession of medication will be in the best interest of the inmate. A local correctional facility, facility employee, or agent may not be held liable for issuing or prescribing medication to an inmate on his or her release. The bill does not apply to pretrial inmates.

Fiscal Summary

State Effect: None. The bill is directed at local correctional facilities.

Local Effect: Significant increase in expenditures for local correctional facilities that provide inmates with mental illnesses with 30-day supplies of medication upon release. No effect on revenues. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: The requirement to provide a mentally ill inmate with a 30-day supply of medication upon release currently applies to State Division of Correction facilities.

A managing official is responsible for the safekeeping, care, and feeding of inmates in the custody of a local correctional facility, until the inmate is discharged, released, or withdrawn from the facility. An injured, sick or disabled inmate in a local correctional facility has to reimburse the county for medical expenses and provide any information regarding health coverage or Medicaid eligibility. However, inmates are not eligible to receive Medicaid or Pharmacy Assistance benefits during incarceration. In addition to obtaining any reimbursement, each county has to establish a fee of up to \$4 for each visit by an inmate to an institutional medical unit or noninstitutional physician, dentist, or optometrist.

A county or managing official is not responsible for payment for services or treatment rendered to an inmate as a result of admission to a State facility for individuals who have mental disorders.

Background: Chapter 82 of 2005 required the Department of Health and Mental Hygiene, the Department of Human Resources, and the Department of Public Safety and Correctional Services (DPSCS) to convene a workgroup to make recommendations on actions to break the cycle of rearrest and reincarceration for individuals with mental illnesses. Chapter 628 of 2006 extended the workgroup's reporting deadline and expanded the scope of its required report.

The Adult Criminal Justice and Mental Health Workgroup surveyed correctional facilities in Maryland to determine the prevalence of mental illness among the inmate population and the availability of services. The workgroup's final report, issued January 2007, found that statewide 927 detention center inmates (7.5% of the total population) had serious mental illnesses; another 1,086 (11.8%) were identified as having less serious mental illnesses, including personality disorders (such as paranoid disorder). A serious mental illness is defined as a substantial disorder of thought, mood, perception, orientation, or memory (such as schizophrenia or psychotic disorder due to substance abuse or general medical condition) or a disorder that meets criteria for persistent and disabling personality disorders.

According to the workgroup report, 12.5% of prison inmates are receiving psychiatric medication at any given time. In detention centers, the percentage of inmates receiving psychiatric medication ranges from 3.3% in Washington County to 85% in Calvert County. Most local jurisdictions report medication rates in the 14% to 20% range. Not every inmate receiving psychiatric medication has a serious mental illness, as these medications are frequently used for nonmental health conditions, such as insomnia.

The workgroup made a number of recommendations to address rearrest and reincarceration of individuals with mental illnesses in Maryland, and Chapter 595 of 2007 implemented several of the workgroup's recommendations. Specifically, Chapter 595

required (among other things) DPSCS to provide an inmate who has been sentenced to a term of incarceration in the Division of Correction and who has been diagnosed with a mental illness with access to a 30-day supply of medication for that illness. Part of the 30-day supply of medication may be provided by prescription if the inmate is provided sufficient medication on release to remain medication-compliant until additional medication becomes available from filling the prescription. This requirement applies only if a treating physician determines that the released inmate's possession of medication in the quantity prescribed is in the inmate's best interest and possession of the medication will not constitute a danger to the released inmate. However, this requirement does not apply to local correctional facilities.

Garrett County advises that its local correctional facility houses between 40 and 63 inmates at any given time. Of these, approximately one-fourth to one-third receive mental health care, and half of the patients receiving mental health care receive medication for the mental illness. Garrett County advises that it provides most of the medication to inmates through samples, at no cost to the correctional facility.

Local Fiscal Effect: Significant increase in expenditures for local correctional facilities that provide inmates with mental illnesses, who cannot access or afford medication, with 30-day supplies of medication upon release. While some local correctional facilities provide inmates with a limited amount of medication, it is unclear how many counties in the State provide medication, and for what length of time. However, Legislative Services advises that most local correctional facilities likely do not provide the full 30 days of medication that would be required by this legislation; thus, expenditures will increase for most counties.

For example, Garrett County advises that it will not be able to obtain enough samples to provide every qualifying inmate with a 30-day supply of medication for his or her mental illness upon release. Therefore, annual expenditures for the facility increase by about \$14,400. This estimate includes an estimated three applicable discharges per month at a 30-day cost of \$400 per individual. Costs may vary with the type of medication, which the county advises can range from \$35 to \$900 per month.

Additional Information

Prior Introductions: HB 1099 of 2009, as amended, was identical to this bill. HB 1099 passed the House and received a favorable with amendments vote by the Senate Finance Committee, but no further action was taken.

Cross File: HB 1335 (Delegate Ramirez, *et al.*) - Judiciary and Health and Government Operations.

Information Source(s): Allegany, Harford, Montgomery, and Garrett counties; Baltimore City; Department of Health and Mental Hygiene; Department of Public Safety and Correctional Services; Department of Legislative Services

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