

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 855 (Senator Shank)
Judicial Proceedings

Local Correctional Facilities - Inmates - Payment for Treatment of Preexisting Condition

This bill specifies that a county is not responsible for the cost of medical care, services, or treatment for an inmate that is associated with: (1) a disease, disorder, condition, injury, or other need for medical care that existed before the inmate was committed to the local correctional facility; or (2) any injury that is self-inflicted during the inmate's commitment in the local correctional facility. The cost for such medical care, services, or treatment for a pre-existing condition is the responsibility of the inmate.

The local correctional facility's managing official, in consultation with a qualified health care professional, must determine the manner in which medical care, services, or treatment for an inmate with a pre-existing condition is provided.

If a county, in order to comply with a legal mandate to provide medical care to inmates, incurs expenses associated with an inmate's pre-existing condition, the county is entitled to payment of the expenses by the inmate whether or not the expenses exceed \$25,000.

Fiscal Summary

State Effect: None.

Local Effect: Potential savings for local correctional facilities, depending on the number of incarcerated inmates with preexisting conditions, nature of those conditions, and the costs for treatment.

Small Business Effect: None.

Analysis

Current Law: Notwithstanding any other law, a judge may sentence an individual to a local correctional facility if:

- the sentence to be then executed is for a period of not more than 18 months; and
- the judge imposing the sentence is in a jurisdiction that is a party to the operation and maintenance of the local correctional facility to which the individual is sentenced.

The governing body of each county must establish a reasonable fee, not to exceed \$4, for each visit by an inmate in a local correctional facility to an institutional medical unit or noninstitutional physician, dentist, or optometrist. The per-visit fee must be deducted from an inmate's spending financial account, reserve financial account, or similar account held by the managing official on behalf of the inmate. The fees collected must be deposited in the county's general fund.

These requirements do not apply to a visit by an inmate to a medical unit or a physician, dentist, or optometrist if the visit is:

- required as a part of the intake process;
- required for an initial physical examination;
- due to a referral by a nurse or physician's assistant;
- provided during a follow-up visit that is initiated by a medical professional from the local correctional facility;
- initiated by a medical or mental health staff member of the local correctional facility; or
- required for necessary treatment.

After each fiscal year the State must reimburse a county for medical expenses that exceed \$25,000 for each inmate confined in a local correctional facility, regardless of whether the inmate has been sentenced.

Local Fiscal Effect: Carroll County currently seeks restitution for all medical expenses incurred by inmates regardless of the circumstances once they are released from county custody. Carroll County is obligated to provide a reasonable level of medical care for inmates within its custody regardless of the inmate's ability to pay. If an inmate becomes sick or injured, and does not have the ability to pay the county is still obligated to provide medical care. The county spends about \$900,000 annually on inmate medical care, including prescription drugs.

While Baltimore County believes that the bill could save county correctional costs, placing a reliable estimate on the savings is difficult since preexisting conditions would have to be researched and documented thoroughly over a period to make such estimates. The county contracts all inmate medical care to a private vendor (ConMed) at a cost of \$6.1 million in fiscal 2011.

Montgomery County has its own inmate medical care operation costing about \$7 million annually. Of that amount, about \$5 million are staffing costs, including staff nurses. The remainder includes costs for pharmacies, hospitalizations, and contracts with individual doctors. In addition, the county advises that the bill's provisions are in violation of the U.S. Supreme Court's holding in *Estelle v. Gamble*, 429 U.S. 97 (1976) that correctional facilities must provide a community standard of health care.

Queen Anne's County appropriates \$525,000 annually for inmate medical care.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Carroll, and Montgomery counties; Department of Health and Mental Hygiene; Maryland Association of Counties; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2011
ncs/hlb

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