

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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**HOUSE BILL 106
PROPOSED COMMITTEE SUBSTITUTE H106-PCS40224-SH-4**

Short Title: Inmate Health Care.

(Public)

Sponsors:

Referred to:

February 20, 2019

A BILL TO BE ENTITLED
AN ACT TO IMPROVE INMATE HEALTH CARE REIMBURSEMENT AND INTERNAL
PROCESSES AND TO ESTABLISH A TELEMEDICINE PILOT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) To contain medical costs for inmates as required by G.S. 143B-707.3(b), the Department of Public Safety shall develop a plan to increase the use of the Central Prison Healthcare Complex (hereinafter "CPHC") which shall include all of the following:

- (1) Strategies, policies, and oversight mechanisms to ensure that non-life-threatening emergencies for male inmates within a 60-mile radius of Raleigh are treated at the CPHC urgent care facility. As part of this effort, DPS shall consider the use of telemedicine.
- (2) A cost comparison of health care services performed at CPHC and the North Carolina Correctional Institution for Women (hereinafter "NCCIW") and health care services performed by outside contracted providers. The cost comparison shall include the cost of transporting inmates to and from outside contracted providers.
- (3) A comprehensive review of the current usage of health care facilities at CPHC and NCCIW and the potential to maximize usage of those facilities through (i) increasing the usage of CPHC's facilities for general anesthesia procedures and increasing usage of existing on-site equipment, (ii) selling equipment no longer in use or not in use due to staffing changes, (iii) increasing the provision of health care services available at CPHC to female inmates, and (iv) identifying potential CPHC expenditures that would ultimately result in demonstrated cost savings.

SECTION 1.(b) By December 1, 2019, the Department of Public Safety shall submit the plan required by subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public Safety. The Department of Public Safety shall also submit its progress made in achieving cost savings under the plan, the amount of any actual and estimated cost savings, and any obstacles to increasing the usage of the health services facilities at CPHC and NCCIW.

SECTION 2.(a) To ensure that the costs of health care services are properly accounted for, the Department of Public Safety shall do the following:

- (1) Identify all positions with lapsed salaries in fiscal year 2016-2017 that were used to fund health care services for inmates.



- 1 (2) Eliminate the positions identified in subdivision (1) of this subsection and
- 2 transfer the salary funds to one of the four budget codes assigned to the
- 3 Department of Public Safety, Health Services Section.
- 4 (3) Reflect all expenditures for inmate health care services in one of the four
- 5 budget codes assigned to the Department of Public Safety, Health Services
- 6 Section.
- 7 (4) Develop mechanisms to budget, account for, and monitor inmate health care
- 8 expenditures at the prison facility level.

9 **SECTION 2.(b)** The Department of Public Safety shall include the information
 10 described in subsection (a) of this section in the plan required by Section 1(b) of this act.

11 **SECTION 3.** G.S. 143B-707.3 reads as rewritten:

12 **"§ 143B-707.3. Medical costs for inmates and juvenile offenders.**

13 (a) ~~The Beginning July 1, 2019, the~~ Department of Public Safety shall reimburse those
 14 providers and facilities providing approved medical services to inmates and juvenile offenders
 15 outside the correctional or juvenile facility the lesser amount of either a rate of seventy percent
 16 (70%) of the provider's then-current prevailing charge or ~~two times one hundred percent (100%)~~
 17 of the then-current Medicaid rate for any given service. The Department shall have the right to
 18 audit any given provider to determine the actual prevailing charge to ensure compliance with this
 19 provision.

20 This section ~~does apply~~ applies to vendors providing services that are not billed on a
 21 fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the
 22 Department from contracting with a provider for services at rates that provide greater
 23 documentable cost avoidance for the State than do the rates contained in this section or at rates
 24 that are less favorable to the State but that will ensure the continued access to care. The
 25 Department shall reimburse those providers identified by the Department as necessary to ensure
 26 continued access to care the lesser amount of either a rate of seventy percent (70%) of the
 27 provider's then-current prevailing charge or two hundred percent (200%) of the then-current
 28 Medicaid rate for any given service.

29 Any contracts and extensions of contracts for medical services provided to inmates by
 30 contracted providers and facilities shall include the reimbursement rates provided in this
 31 subsection.

32 ...

33 (b1) The Department of Public Safety, Health Services Section, shall develop an electronic
 34 supply inventory management system that, at a minimum, does all of the following:

- 35 (1) Records the arrival and departure of each medical supply in use or for future
- 36 use from the point of order, including all methods of requisition and main
- 37 storage locations (e.g., warehouse, secondary storage location, prison unit, or
- 38 infirmary).
- 39 (2) Records the dates on which a medical supply was physically at each transition
- 40 point, including the date of use or disposal.
- 41 (3) Identifies Department employees who have custody of or control over a
- 42 medical supply at each transition point, including at the time of use or
- 43 disposal.
- 44 (4) Ensures that medical supplies are used prior to their expiration date.
- 45 (5) Ensures an adequate supply of each medical product currently being used or
- 46 obtained for future use at each facility. Adequate supply level shall be based
- 47 on usage of each medical product by each facility.
- 48 (6) Biannually assesses the need for particular medical supplies and the accuracy
- 49 of records through an audit of the system.

50 ...

1 (c) The Department of Public Safety shall report quarterly to the Joint Legislative
2 Oversight Committee on Justice and Public Safety and the chairs of the House of Representatives
3 and Senate Appropriations Committees on Justice and Public Safety on:

4 ...

5 (10) The reimbursement rate for contracted providers. The Department shall
6 randomly audit high-volume contracted providers to ensure adherence to
7 billing at the contracted rate.

8"

9 **SECTION 4.(a)** Subpart A of Part 2 of Article 13 of Chapter 143B of the General
10 Statutes is amended by adding a new section to read:

11 **"§ 143B-707.5. Medicaid services for inmates.**

12 (a) The Department of Public Safety and the Department of Health and Human Services
13 shall work together to enable social workers in the Department of Public Safety, Health Services
14 Section, to qualify for and receive federal reimbursement for performing Medicaid eligibility
15 activities for inmates. The Department of Public Safety, Health Services Section, shall develop
16 policies and procedures to account for the time social workers in the Health Services Section
17 spend on Medicaid eligibility for inmates. All social workers in the Health Services Section who
18 perform activities related to Medicaid eligibility shall be required to receive eligibility
19 determination training provided by the Department of Health and Human Services at least
20 quarterly.

21 (b) Beginning July 1, 2019, the Department of Public Safety, Health Services Section,
22 shall require each social worker performing Medicaid eligibility activities for inmates to
23 document the following:

24 (1) The criteria used by the social worker when deciding to submit an application
25 for Medicaid and when deciding not to submit an application for Medicaid,
26 including any information the social worker believes disqualifies the inmate
27 for Medicaid benefits.

28 (2) An indication in the social worker's data entry of an inmate's Medicaid
29 eligibility as determined by the inmate's county department of social services.

30 (3) The number of 24-hour community provider stays prescreened for potential
31 applications, the number of applications submitted, and the number and
32 percentage of applications approved, denied, and withdrawn, which shall be
33 reported to the Health Services Section Director on a monthly basis.

34 (c) Beginning October 1, 2019, in addition to the requirements in subsection (b), each
35 Department of Public Safety, Health Services Section, social worker performing Medicaid
36 eligibility activities for inmates shall submit Medicaid applications and any supporting
37 documents electronically through the ePass portal in the Department of Health and Human
38 Services or through other electronic means, unless paper copies are required by federal law or
39 regulation."

40 **SECTION 4.(b)** By October 1, 2019, and quarterly thereafter until full
41 implementation is achieved, the Department of Public Safety and the Department of Health and
42 Human Services shall jointly report to the Joint Legislative Oversight Committee on Justice and
43 Public Safety and the Joint Legislative Oversight Committee on Medicaid and North Carolina
44 Health Choice on progress in receiving federal reimbursement for performing Medicaid
45 eligibility activities for inmates.

46 **SECTION 4.(c)** By October 1, 2019, the Department of Public Safety shall report to
47 the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation
48 of the documentation of criteria for the submission of Medicaid applications and the electronic
49 submission of Medicaid applications.

50 **SECTION 5.(a)** The Department of Public Safety, Health Services Section, and the
51 Office of State Human Resources shall jointly study the salaries of all in-prison health services

1 employees to determine what adjustments are necessary to increase the salaries of new hires and
2 existing employees of the Health Services Section to market rates.

3 **SECTION 5.(b)** The Department of Public Safety shall establish a vacancy rate
4 benchmark for each correctional facility and shall create a plan to reduce the vacancy rates. The
5 Department shall consider initiatives to reduce vacancy rates, including the following:

- 6 (1) Increasing salaries to market rates.
- 7 (2) Creating a student loan forgiveness program for the Health Services Section.
- 8 (3) Offering signing bonuses and annual cash incentives.
- 9 (4) Increasing the use of telemedicine positions.
- 10 (5) Creating dual appointment opportunities for doctors currently employed by
11 the State.
- 12 (6) Offering differential pay for health services workers employed in
13 difficult-to-staff facilities.
- 14 (7) Streamlining and potentially eliminating duplicative or unnecessary steps in
15 the hiring process.

16 **SECTION 5.(c)** The Department of Public Safety shall establish methods to measure
17 the effectiveness of the initiatives to reduce vacancy rates required in subsection (b) of this
18 section and estimate the budgetary impact and anticipated savings from the Department's reduced
19 reliance on outside contracted providers. By February 1, 2020, the Department shall submit its
20 findings on salaries and vacancy rates, including any proposed legislation and the need for
21 assistance required from the Office of Human Resources and the Office of Rural Health in the
22 Department of Health and Human Services to accomplish the objectives outlined in subsections
23 (a) and (b) of this section to the Joint Legislative Oversight Committee on Justice and Public
24 Safety.

25 **SECTION 6.(a)** The Department of Public Safety, Health Services Section, shall
26 establish a telemedicine pilot program to provide physical health services to inmates in remote
27 correctional facilities. The goal of the pilot program is to assess whether the use of telemedicine
28 decreases costs for inmate transportation, custody, and outside providers while improving access
29 to care. While designing the telemedicine pilot program, the Department of Public Safety, Health
30 Services Section, shall consult UNC Health Care; the 2012 University of North Carolina,
31 Kenan-Flagler Business School report on telemedicine; and Finding 6, Report Number 2018-08,
32 from the Joint Legislative Program Evaluation Oversight Committee. The telemedicine pilot
33 program shall initially be established in two correctional facilities serving male inmates. One
34 pilot site shall be located in a correctional facility in the eastern portion of the State and one pilot
35 site shall be located in a correctional facility in the western portion of the State. The pilot program
36 design must connect the two correctional facility pilot sites with the Central Prison Healthcare
37 Complex and its contracted providers' facilities and shall be operational on or before October 1,
38 2019.

39 **SECTION 6.(b)** Physical health services covered by the telemedicine pilot shall
40 include evaluation and management activities in the following service areas: hepatology;
41 cardiology; general surgery; orthopedics; ear, nose, and throat; gastroenterology; infectious
42 disease; neurology; oncology; optometry; podiatry; physical therapy evaluation; and urology. For
43 any service area for which telemedicine is not pursued, the Department shall document its
44 rationale for not including the service area in the pilot. The ability to assess, measure, and
45 evaluate the telemedicine pilot program shall be integral to the pilot program design. Assessment
46 of the pilot program shall include, but is not limited to, the following measures for each
47 correctional facility pilot site:

- 48 (1) Number and cost of telemedicine encounters by service area.
- 49 (2) Comparison of the number and cost of telemedicine encounters, by service
50 area, to:

- 1 a. The number of in-person encounters provided the previous year to
- 2 inmates housed at that facility; and
- 3 b. The number of in-person encounters provided during the pilot period
- 4 at similar correctional facilities not participating in the pilot.
- 5 (3) Comparison of the number of days lapsed between referral date and treatment
- 6 date, by service area, to:
- 7 a. The number of days lapsed the previous year in that facility; and
- 8 b. The number of days lapsed during the pilot period at similar
- 9 correctional facilities not participating in the pilot.
- 10 (4) Amount of inmate transportation and custody costs avoided from receiving
- 11 telemedicine.
- 12 (5) Amount of provider transportation costs avoided from providing
- 13 telemedicine.
- 14 (6) Cost of initial telemedicine equipment and other related costs with
- 15 descriptions.
- 16 (7) Obstacles and concerns related to expanding telemedicine to other
- 17 correctional facilities.

18 **SECTION 6.(c)** On or before October 1, 2020, the Department of Public Safety,
19 Health Services Section, shall provide an interim report on the assessment criteria outlined in
20 subsection (b) of this section, including any additional findings and recommendations, to the
21 Joint Legislative Oversight Committee on Justice and Public Safety and the Joint Legislative
22 Oversight Committee on Health and Human Services. On or before October 1, 2021, the
23 Department of Public Safety, Health Services Section, shall report to the Joint Legislative
24 Oversight Committee on Justice and Public Safety and the Joint Legislative Oversight Committee
25 on Health and Human Services on the assessment criteria outlined in subsection (b) of this
26 section, including any additional findings, and shall make recommendations on whether to
27 expand the telemedicine pilot program to additional sites, including accompanying costs and
28 anticipated savings, and recommendations on which correctional facilities would be most
29 advantageous to include in the pilot due to lack of access or costs associated with transportation
30 and custody.

31 **SECTION 7.** This act becomes effective July 1, 2019. Any contracts or extensions
32 of contracts for medical services provided to inmates by contracted providers and facilities
33 entered into on or after July 1, 2019, shall include the reimbursement rates provided
34 G.S. 143B-707.3(a).