

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

3

HOUSE BILL 106*
Committee Substitute Favorable 3/26/19
Committee Substitute #2 Favorable 4/26/19

Short Title: Inmate Health Care.

(Public)

Sponsors:

Referred to:

February 20, 2019

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

4 The General Assembly of North Carolina enacts:

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

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

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

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



1 (1) Reflect all expenditures for inmate health care services in one of the four
2 budget codes assigned to the Department of Public Safety, Health Services
3 Section.

4 (2) Develop options for eliminating the structural deficit for inmate health care
5 services, including consideration of eliminating vacant positions and
6 transferring lapsed salary funds to the Health Services Section.

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

9 **SECTION 3.(a)** G.S. 143B-707.3 reads as rewritten:

10 "**§ 143B-707.3. Medical costs for inmates and juvenile offenders.**

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

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

27 Any contracts and extensions of contracts for medical services provided to inmates by
28 contracted providers and facilities shall include the reimbursement rates provided in this
29 subsection unless greater cost savings can be demonstrated through the use of an alternate rate.

30 ...

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

34 ...

35 (10) The reimbursement rate for contracted providers. The Department shall
36 randomly audit high-volume contracted providers to ensure adherence to
37 billing at the contracted rate.

38"

39 **SECTION 3.(b)** By February 1, 2020, the Department of Public Safety, Health
40 Services Section, shall report to the Joint Legislative Oversight Committee on Justice and Public
41 Safety and to the chairs of the House of Representatives and Senate Appropriations Committees
42 on Justice and Public Safety on alternative methods for reimbursing providers and facilities that
43 provide approved medical services to inmates, including Medicare rates.

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

46 "**§ 143B-707.5. Medicaid services for inmates.**

47 (a) The Department of Public Safety and the Department of Health and Human Services
48 shall work together to enable social workers in the Department of Public Safety, Health Services
49 Section, to qualify for and receive federal reimbursement for performing administrative activities
50 related to Medicaid eligibility for inmates. The Department of Public Safety, Health Services
51 Section, shall develop policies and procedures to account for the time social workers in the Health

1 Services Section spend on administrative activities related to Medicaid eligibility for inmates.
2 All social workers in the Health Services Section who perform administrative activities related
3 to Medicaid eligibility shall be required to receive eligibility determination training provided by
4 the Department of Health and Human Services at least quarterly.

5 (b) Beginning July 1, 2019, the Department of Public Safety, Health Services Section,
6 shall require each social worker performing administrative activities related to Medicaid
7 eligibility for inmates to document the following:

8 (1) The criteria used by the social worker when deciding to submit an application
9 for Medicaid and when deciding not to submit an application for Medicaid,
10 including any information the social worker believes disqualifies the inmate
11 for Medicaid benefits.

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

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

18 (c) Beginning October 1, 2019, in addition to the requirements in subsection (b) of this
19 section, each Department of Public Safety, Health Services Section, social workers performing
20 administrative activities related to Medicaid eligibility for inmates shall submit Medicaid
21 applications and any supporting documents electronically through the ePass portal in the
22 Department of Health and Human Services or through other electronic means, unless paper
23 copies are required by federal law or regulation."

24 **SECTION 4.(b)** By October 1, 2019, and quarterly thereafter until full
25 implementation is achieved, the Department of Public Safety and the Department of Health and
26 Human Services shall jointly report to the Joint Legislative Oversight Committee on Justice and
27 Public Safety and the Joint Legislative Oversight Committee on Medicaid and North Carolina
28 Health Choice on progress in receiving federal reimbursement for performing administrative
29 activities related to Medicaid eligibility for inmates.

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

34 **SECTION 5.** The Department of Public Safety, Health Services Section, shall issue
35 two requests for proposals (RFP) to develop an electronic supply inventory management system.
36 One RFP shall be for a system to be used at all prison facilities and one RFP shall be for a system
37 to be used exclusively at the Central Prison Healthcare Complex and the North Carolina
38 Correctional Institution for Women. The RFPs shall be for an electronic supply inventory
39 management system that is capable of all of the following:

40 (1) Recording the arrival and departure of each medical supply in use or for future
41 use from the point of order, including all methods of requisition and main
42 storage locations (e.g., warehouse, secondary storage location, prison unit, or
43 infirmary).

44 (2) Recording the dates on which a medical supply was physically at each
45 transition point, including the date of use or disposal.

46 (3) Identifying Department employees who have custody of or control over a
47 medical supply at each transition point, including at the time of use or
48 disposal.

49 (4) Ensuring that medical supplies are used prior to their expiration date.

- 1 (5) Ensuring an adequate supply of each medical product currently being used or
2 obtained for future use at each facility. Adequate supply level shall be based
3 on usage of each medical product by each facility.
- 4 (6) Biannually assessing the need for particular medical supplies and the accuracy
5 of records through an audit of the system.

6 The Department shall report the results of the RFPs to the Joint Legislative Oversight
7 Committee on Justice and Public Safety and the chairs of the House of Representatives and
8 Senate Appropriations Committees on Justice and Public Safety by December 1, 2019.

9 **SECTION 6.(a)** The Department of Public Safety, Health Services Section, and the
10 Office of State Human Resources shall jointly study the salaries of all in-prison health services
11 employees to determine what adjustments are necessary to increase the salaries of new hires and
12 existing employees of the Health Services Section to market rates.

13 **SECTION 6.(b)** The Department of Public Safety shall establish a vacancy rate
14 benchmark for each correctional facility and shall create a plan to reduce the vacancy rates. The
15 Department shall consider initiatives to reduce vacancy rates, including the following:

- 16 (1) Increasing salaries to market rates.
17 (2) Creating a student loan forgiveness program for the Health Services Section.
18 (3) Offering signing bonuses and annual cash incentives.
19 (4) Increasing the use of telemedicine positions.
20 (5) Creating dual appointment opportunities for doctors currently employed by
21 the State.
22 (6) Offering differential pay for health services workers employed in
23 difficult-to-staff facilities.
24 (7) Streamlining and potentially eliminating duplicative or unnecessary steps in
25 the hiring process.

26 **SECTION 6.(c)** The Department of Public Safety shall establish methods to measure
27 the effectiveness of the initiatives to reduce vacancy rates required in subsection (b) of this
28 section and estimate the budgetary impact and anticipated savings from the Department's reduced
29 reliance on outside contracted providers. By February 1, 2020, the Department shall submit its
30 findings on salaries and vacancy rates, including any proposed legislation and the need for
31 assistance required from the Office of Human Resources and the Office of Rural Health in the
32 Department of Health and Human Services to accomplish the objectives outlined in subsections
33 (a) and (b) of this section to the Joint Legislative Oversight Committee on Justice and Public
34 Safety.

35 **SECTION 7.(a)** By July 1, 2019, the Department of Public Safety, Health Services
36 Section, shall report to the Joint Legislative Oversight Committee on Justice and Public Safety
37 and the chairs of the House of Representatives and Senate Appropriations Committees on Justice
38 and Public Safety on the feasibility study of telehealth services referenced in the February 2019
39 Memorandum of Agreement between the Department and UNC Health Care.

40 **SECTION 7.(b)** The Department of Public Safety, Health Services Section, shall
41 establish a telemedicine pilot program to provide physical health services to inmates in remote
42 correctional facilities. The pilot program shall be established with consideration of the results of
43 the study referenced in subsection (a) of this section. The goal of the pilot program is to assess
44 whether the use of telemedicine decreases costs for inmate transportation, custody, and outside
45 providers while improving access to care. While designing the telemedicine pilot program, the
46 Department of Public Safety, Health Services Section, shall consult UNC Health Care; the 2012
47 University of North Carolina, Kenan-Flagler Business School report on telemedicine; and
48 Finding 6, Report Number 2018-08, from the Joint Legislative Program Evaluation Oversight
49 Committee. The telemedicine pilot program shall initially be established in two correctional
50 facilities serving male inmates. One pilot site shall be located in a correctional facility in the
51 eastern portion of the State and one pilot site shall be located in a correctional facility in the

1 western portion of the State. The pilot program design must connect the two correctional facility
2 pilot sites with the Central Prison Healthcare Complex and its contracted providers' facilities and
3 shall be operational on or before January 1, 2020.

4 **SECTION 7.(c)** The ability to assess, measure, and evaluate the telemedicine pilot
5 program shall be integral to the pilot program design. Assessment of the pilot program shall
6 include, but is not limited to, the following measures for each correctional facility pilot site:

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

27 **SECTION 7.(d)** On or before January 1, 2020, the Department of Public Safety,
28 Health Services Section, shall provide an interim report on the assessment criteria outlined in
29 subsection (c) of this section, including any additional findings and recommendations, to the
30 Joint Legislative Oversight Committee on Justice and Public Safety and the Joint Legislative
31 Oversight Committee on Health and Human Services. On or before January 1, 2021, the
32 Department of Public Safety, Health Services Section, shall report to the Joint Legislative
33 Oversight Committee on Justice and Public Safety and the Joint Legislative Oversight Committee
34 on Health and Human Services on the assessment criteria outlined in subsection (c) of this
35 section, including any additional findings, and shall make recommendations on whether to
36 expand the telemedicine pilot program to additional sites, including accompanying costs and
37 anticipated savings, and recommendations on which correctional facilities would be most
38 advantageous to include in the pilot due to lack of access or costs associated with transportation
39 and custody.

40 **SECTION 8.** This act becomes effective July 1, 2019. Any contracts or extensions
41 of contracts for medical services provided to inmates by contracted providers and facilities
42 entered into on or after July 1, 2019, shall include the reimbursement rates provided in
43 G.S. 143B-707.3(a).