

SM 48  
COUNTY INMATE HEALTH  
PROVIDER REIMBURSEMENT

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**NEW MEXICO**  
HEALTH POLICY COMMISSION



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## EXECUTIVE SUMMARY

The increasing cost of health care for New Mexico inmate population is a continuing source of concern for state leaders. New Mexico county detention facilities provide health care, including mental health, to individuals in the custody of county detention facilities.

County detention facilities experience serious difficulties in obtaining competitive rates from health care providers. Since individuals in custody automatically lose Medicaid and Medicare eligibility, this adds to the problem. These conditions limit the ability of county governments to be appropriately accountable to local taxpayers for these costs.

The New Mexico Senate enacted Senate Memorial 48 (SM 48) during the 2008 Legislative session. SM 48 has been included as Appendix A of this document. The Memorial requested that the New Mexico Health Policy Commission (HPC) convene a task force to study and develop recommendations on health care provider reimbursement for health care delivered to individuals in the custody of county detention facilities. Task Force members included representatives from the New Mexico Association of Counties, individual counties, healthcare providers who provide care to county detention facility inmates, New Mexico Medical Society, New Mexico Primary Care Society and the New Mexico Pharmacists Association.

The SM 48 Task Force held monthly meetings to identify the specific information associated with the reimbursement of health care in county facilities and the recommendations contained in this report. Dr. Paul Guerin and Linda Freeman, who have directed research for the New Mexico Sentencing Commission presented their findings and distributed the most recent studies of jail populations and length of stay to the Task Force. Other areas addressed by the Task Force were funding sources, categories of services, and overall costs of healthcare in each of the thirty-three counties.

To address the charge of SM 48, the HPC staff, in coordination with the SM 48 Task Force, developed the *County Inmate Health Provider Reimbursement Survey*. Each of the County Detention Facilities in the thirty-three New Mexico counties were surveyed. The various questions developed for the survey included annual health care costs, cost of healthcare per inmate per day and the type of primary funding of the County Detention Facility. Medical, Behavioral Health, Dental and Pharmacy were the categories of primary health care that were decided upon for further questions of the survey. The questions asked in each primary health care category were the percentages of annual healthcare funding, annual health care costs, and annual hospital and non-hospital costs. The Task Force was interested in questions regarding the top five billable diagnoses and top five pharmacy costs of each of the detention facilities. The survey also asked each county facility what hospital it used, who were the providers in each primary health care category and if they had a concern for reduction in services in each

health care category. The survey results were discussed individually and used in the development of recommendations.

The Task Force developed recommendations for consideration that could establish policy for health care provider reimbursement of health care delivered to individuals in the custody of county detention facilities.

The following is a list of SM 48 Task Force consensus recommendations:

### **Legislation**

**1. Medical services provided by health care providers to inmates incarcerated in New Mexico detention facilities should be paid at the workers compensation schedule of charges plus gross receipts tax, or at a payment rate agreed to by contract between the health care provider and the facility.**

**2. The New Mexico Corrections Department should assume all financial responsibility for health care costs for felony offenders in county detention facilities or remove them from the facility within 24 hours of booking.**

**3. The Legislature should direct the appropriate state government department to solicit bids to administer a healthcare provider program for county detention facilities.**

### **Memorial**

**The Legislature should direct the Health Policy Commission to study the statewide purchase of healthcare services for county detention facilities.**

## INTRODUCTION

New Mexico county detention facilities provide health care, including mental health care, to individuals in the custody of county detention facilities. County detention facilities experience serious difficulties in obtaining competitive rates from health care providers. The problem is reinforced by the fact that individuals in custody automatically lose Medicaid and Medicare eligibility upon entry into the county detention system. These conditions limit the ability of county governments to be appropriately accountable to local taxpayers for these costs.

As part of the memorial, the New Mexico Association of Counties requested policy change that would require health care providers that receive state money to charge county detention facilities the same reimbursement rates that they receive from Medicaid or applicable State programs. The New Mexico Association of Counties believes that the best mechanism for achieving a fair reimbursement rate would be reimbursements equal to the Medicaid rate.

During the 2008 Legislative session, the New Mexico Senate enacted SM 48 (Appendix A). SM 48 requested that the HPC convene a task force to study health care provider reimbursement for health care delivered to individuals in the custody of county detention facilities. The Task Force was charged with developing recommendations for health care provider reimbursement for health care delivered to individuals in county detention facility custody. SM 48 further requested that the HPC present recommendations to the Legislative Health and Human Services Committee by November 1, 2008.

The memorial requested that the HPC convene a task force to study the issue. Task Force members included representatives from the New Mexico Association of Counties, individual counties, healthcare providers who provide care to county detention facility inmates, New Mexico Medical Society, New Mexico Primary Care Society and the New Mexico Pharmacists Association.

The SM 48 Task Force and the HPC developed the *County Inmate Health Provider Reimbursement Survey*. The survey was mailed to each of the thirty-three county detention facilities with the request that they provided the required information. The results of this survey are included in this report.

## BACKGROUND

During the 2008 Regular New Mexico Legislative Session, Senator Richard Martinez introduced Senate Bill 272 (SB 272) and Senate Bill 385 (SB 385). SB 272 defined health care providers as either Medicaid or non-Medicaid types. “A provider shall charge the County for health care as a ‘Medicaid’ provider, as defined in Subsection D of Section 27-11-2 NMSA 1978, shall charge at the same rate that the provider charges the Human Services Department for ‘Medicaid’ recipients, as defined in Subsection F of Section 27-11-2 NMSA 1978. A provider who is not a ‘Medicaid’ provider but who accepts reimbursement from the State for all or part of a patient’s care shall charge the County at the highest rate that the State reimburses the provider for the same care pursuant to another program. This Senate Bill did not include a request for an appropriation.”<sup>1</sup>

SB 385 supported paying both Medicaid and non-Medicaid providers the lowest dollar rate for county jail services. This lowest dollar rate charged would be equal to the same rate for care provided to any other payer. The effect of this Senate Bill was to promote and insure that medical providers charge the lowest rates for county jail services. In addition, SB 385 requested providers publish their rates and that counties may also enter into agreements to set different rates with providers. This Senate Bill did not include a request for an appropriation.<sup>2</sup>

During the session, SB 385 was substituted for SB 272 in the Senate Public Affairs Committee. The Bill was heard and then tabled in that Committee. During the Hearing, several members of the Committee expressed serious concern for the issue of county detention health care costs. As a result of the discussion, Senator Martinez subsequently introduced SM 48.

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1 Fiscal Impact Report <http://legis.state.nm.us/Sessions/08%20Regular/firs/SB0272.pdf>

2 Fiscal Impact Report <http://legis.state.nm.us/Sessions/08%20Regular/firs/SB0385.pdf>

## RESEARCH

### NATIONAL LEVEL

In state prisons, inmates are confined for felony crimes. “Jails are locally-operated correctional facilities that confine persons before or after adjudication. Inmates sentenced to jail usually have a sentence of a year or less, but jails also incarcerate persons in a wide variety of other categories.”<sup>3</sup> A recent study by the Justice Policy Institute shows that while prison populations continue to grow, in 2006 this growth was half what it was in 1996. In contrast, recently the rate of jail population growth has surpassed that of prisons.<sup>4</sup> Proposed solutions to controlling prison population growth have included methods of reducing prison spending, sentencing reform, and mandated treatment services as a replacement to incarceration for drug addiction.

Related to controlling the growth of the inmate population, county jails have not received the same attention as prisons. Yet all components of the criminal justice system are confronted with the challenges of an inmate population that includes members dealing with issues of drug abuse, mental illness, homelessness, physical impairment, mental impairment, diseases, illnesses, and the chronic symptoms of an aging inmate population. The medications that are used for treatment for mental health and infectious diseases among inmates in jails are included in the burden of responsibility. There are financial and social consequences based upon these conditions that impact not only those people who are in jail, but the communities they live in, and the counties that sustain them.

Findings from the Bureau of Justice Statistics Special Report on Medical Problems of Jail Inmates discovered that increased medical problems are common among inmates with a history of drug use or dependence. The relationship between inmates and drugs are:

- 38% of inmates who reported ever using drugs were more likely than those who never used drugs (31%) to report a current medical problem;
- 38% percent of inmates who ever used drugs, compared to 31% of those who never used drugs, reported impairment;
- 53% of jail inmates who reported ever using a needle to inject drugs said they had a current medical problem, compared to 35% of those who did not use a needle; and,
- 45% of jail inmates who used a needle to inject drugs, compared to 37% of those who did not, reported having a physical or mental impairment.

<sup>3</sup> *Jail Statistics*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, <http://www.ojp.gov/bjs/jails.htm>

<sup>4</sup> Amanda Petteruti and Nastassia Walsh, *Jailing Communities: The Impact of Jail Expansion and Effective Public Safety Strategies*, A Justice Policy Institute Report, April 2008.

Among jail inmates dependent on or abusing drugs and or alcohol:

- 4 in 10 drug abusers reported having a physical or mental impairment, compared to about 3 in 10 inmates who were not dependent on drugs;
- 40% of alcohol abusers reported a current medical problem, compared to about 33% of those who were not dependent or abusing alcohol; and
- 40% of those dependent on or abusing alcohol had impairment, compared to approximately 34% of those who were not dependent on or abusing alcohol.<sup>5</sup>

Jail inmates had the highest rate of symptoms of a mental health disorder (60%), followed by State (49%), and Federal prisoners (40%).<sup>6</sup> In a report on Mental Problems of Prison and Jail Inmates that was conducted by the U.S. Department of Justice (DOJ), they reported 34% of local jail inmates who had a mental health problem indicated that they had used drugs at the time of the offense, compared to 20% of jail inmates who did not have a mental problem.

Among the jail inmates who had a mental health problem:

- 43% in local jails reported they had used marijuana or hashish in the month before the offense;
- 24% of inmates in local jails who had a mental health problem reported they had used cocaine or crack in the month before the offense; and
- 12% of jail inmates who had a mental health problem had used methamphetamines in the month before the offense.

Jail inmates who had a mental health problem were more likely than inmates without a mental problem to report a binge drinking experience:

- 48% of jail inmates who had mental health problems had a much higher rate of binge drinking compared to 30% jail inmates without mental health problems; and
- 35% of the jail inmates who had a mental problem were more likely than the 30% jail inmates without a mental problem to have been using alcohol at the time of the offense.<sup>7</sup>

5 Laura M. Maruschak, *Medical Problems of Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, November 2006, NCJ 210696.

6 Doris J. James and Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, September 2006, NCJ 213600, Revised, December 14, 2006.

7 Doris J. James and Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, September 2006, NCJ 213600, Revised, December 14, 2006.

The Bureau of Justice Statistics Special Report also reported that nearly half of jail inmates who indicated being homeless or living in a shelter in the year prior to arrest said they had a current medical problem, physical impairment, or mental impairment compared to a third of those who were not homeless. Forty-two percent of inmates who reported a current medical problem said they had consulted a health care professional about the problem.

More than one third of jail inmates reported a physical, medical, or learning impairment. About one in five jail inmates said they considered themselves to have a disability. Approximately 22% of jail inmates reported a learning impairment, such as dyslexia, attention deficit disorder, or having been enrolled in special education classes.

Approximately 6% of jail inmates reported difficulty hearing a normal conversation even when wearing a hearing aid. Among jail inmates, 11% reported difficulty seeing ordinary newsprint even when wearing glasses.<sup>8</sup>

Medical problems and physical or mental impairments were also more prevalent among inmates who reported being unemployed before their arrest or receiving government assistance:

- 44% of jail inmates who were unemployed in the month prior to their arrest, compared to 34% of those who were employed, reported having a physical or mental impairment;
- 41% of inmates who were unemployed and 35% who were employed reported having a current medical problem;
- 57% of jail inmates who received financial support from government agencies in the month prior to arrest reported a current medical problem; and;
- 55% of inmates who received income from government transfers reported having a physical or mental impairment, compared to 33% of those who reported receiving wages.

The report also showed that nearly two-thirds of jail inmates said they had been tested for tuberculosis since admission; over a fifth reported being tested for HIV. More than four in ten inmates reported having a medical exam since admission to jail.<sup>9</sup>

Jail inmates reported a variety of diseases or illnesses. According to the U.S. Department of Justice 2002 Survey of Inmates in Local Jails, more than a third of jail inmates reported having a current medical problem other than a cold or virus.<sup>10</sup> Many of these problems reflect conditions existing before admission. Findings from the Bureau

8 Laura M. Maruschak, *Medical Problems of Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, November 2006, NCJ 210696.

9 Laura M. Maruschak, *Medical Problems of Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, November 2006, NCJ 210696.

10 Laura M. Maruschak, *Medical Problems of Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, November 2006, NCJ 210696.

of Justice Statistics Special Report on Medical Problems of Jail Inmates, establish that jail inmates reported a wide-range of medical problems, with arthritis as the most common (13%), followed by hypertension (11%), and asthma (10%). Heart problems (6%), followed by kidney problems and tuberculosis (4%) were the next most frequently reported medical conditions. Fewer than 5% of inmates reported cancer, paralysis, stroke, diabetes, liver problems, hepatitis, sexually transmitted diseases, or human immunodeficiency virus (HIV). Heart valve damage and arrhythmia were the most commonly reported types of heart problems. About a quarter of jail inmates reported having a dental problem.<sup>11</sup>

As may be expected, older inmates had more medical problems than younger inmates. Findings from the same report discovered that among jail inmates age 45 years or older:

- 61% reported a current medical problem, compared to 25% of those 24 years or younger; and,
- 44% of jail inmates age 45 years or older and 38% of those age 24 years or younger said they had a physical or mental impairment.

Among the specific physical impairments:

- 12% of jail inmates age 45 or older reported difficulty hearing;
- 24% reported difficulty seeing;
- 7% had a problem with mobility.
- 53% of female jail inmates reported having a current medical problem, compared to 35% of male inmates; and,
- 5% of female jail inmates said they were pregnant at the time of admission.

With the exception of paralysis, stroke, and tuberculosis (TB), female inmates reported higher levels of each specific type of medical problem than male inmates. Females were most likely to report cervical cancer and males to report skin cancer. Female jail inmates reported having cervical cancer, ovarian cancer, and breast cancer. Male jail inmates most commonly reported ever having skin cancer, lung cancer, testicular and colon cancer. Male and female inmates were equally likely to report having had surgery since their admission.<sup>12</sup>

Counties assume the inmate's financial obligations for prescribed medications to treat mental health issues and infectious diseases. According to the report on Mental Health Problems of Prison and Jail Inmates, for jail inmates who had a mental health problem, an estimated 23% had received treatment during the year before their arrest. Of those

<sup>11</sup> Laura M. Maruschak, *Medical Problems of Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, November 2006, NCJ 210696.

<sup>12</sup> Laura M. Maruschak, *Medical Problems of Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, November 2006, NCJ 210696.

reporting a mental health problem:

- 17% had used medication;
- 12% had received professional therapy; and
- 7% had stayed overnight in a hospital because of a mental health or emotional problem.

For jail inmates who had a mental health problem, taking a prescribed medication was the most common type of treatment. 15% of jail inmates who had a mental health problem had used prescribed medication for the problem since admission.

An overnight stay in a hospital is the least common method of treatment for jail inmates. Two percent in local jails had stayed overnight in a hospital for a mental health problem. Among jail inmates in 2002, 30% said they had received treatment for a mental health problem in the past, up from 25% in 1996. From 1996 to 2002, 11% received treatment since admission.<sup>13</sup>

Jail inmates who are infected with Tuberculosis (TB) are often prescribed a course of preventative therapy, which involves taking an anti-tuberculosis medication for 6 to 12 months, depending on HIV status.<sup>14</sup> Often, persons with TB are also infected with HIV. According to a 2005 national survey of infectious diseases in correctional facilities, of the responding county jails, 42% report funding HIV medications from their budgets.<sup>15</sup>

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13 Doris J. James and Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, September 2006, NCJ 213600, Revised, December 14, 2006.

14 Karen Wilcock, Theodore M. Hammett, and Dale G. Parent, *Controlling Tuberculosis in Community Corrections*, NIJ Research in Action, May 1995, NCJ 153211.

15 Theodore M. Hammett, Ph.D., *Public Health/Corrections Collaborations: Prevention and Treatment of HIV/AIDS, STDs, and TB*, National Institute of Justice and Centers for Disease Control and Prevention, U.S. Department of Justice, July 1998.

## STATE LEVEL

The function of the county jail is to detain persons awaiting trial or incarcerating persons who received short sentences. In many county jails, fulfilling these primary functions has resulted in jails that are occupied beyond capacity.<sup>16</sup> According to the 2002 Behavioral Health Needs and Gaps In New Mexico, it is estimated that the number of probationers and parolees in New Mexico increases by 5% per year, compared to a national growth rate of 3.6% per year.<sup>17</sup>

Many of the inmates who are incarcerated in New Mexico county jails have developmental disabilities, substance abuse issues, mental health issues, or have multiple disorders resulting from a combination of these conditions. In the majority of cases, these multiple disorders include a combination of substance abuse and mental health issues. While 6% of the adult inmates have a serious mental illness, 72% of these are also substance abusers.<sup>18</sup>

Driving While Intoxicated (DWI) is one of the largest categories of offenses resulting in jail time in New Mexico. During Governor Richardson's Administration, the State has taken a very aggressive approach to removing DWI offenders from our roadways. The state-wide trend since 1993 when there were 17,893 convictions for DWI, through 2007 when 9,320 people were convicted, shows a steadily decreasing number of arrests and convictions although the state population has increased significantly.<sup>19</sup> Of the jail inmates that use alcohol, 25% have been convicted of DWI.<sup>20</sup>

Based on information obtained from the County Inmate Health Provider Reimbursement Survey (Appendix B) developed by the HPC, jail inmates receive services for a variety of diseases or illnesses. According to the survey respondents, jail inmates experience a wide-range of medical problems. Diabetes is the most common, followed by hypertension, backache, infections, insomnia, and anxiety. Many of these conditions could have existed prior to incarceration.

In addition to other costs associated with providing health care services to inmates, counties also assume the financial burden of pharmaceutical services. These services include medications to treat mental health issues, infectious diseases, and a wide range of other ailments. Based on the survey information provided by the counties, Ibuprofen was the medication most billed for followed by Seroquel and Diabetic medications.

16 Amanda Petteruti and Nastassia Walsh, *Jailing Communities: The Impact of Jail Expansion and Effective Public Safety Strategies*, A Justice Policy Institute Report, April 2008.

17 Behavioral Health Needs and Gaps in New Mexico, the Technical Assistance Collaborative, Inc., Final Report, July 2002.

18 Behavioral Health Needs and Gaps in New Mexico, the Technical Assistance Collaborative, Inc., Final Report, July 2002. <http://www.tacinc.org/Docs/HS/NM/NMGap-Executive%20Summary%20Highlights.pdf>

19 New Mexico DWI Arrest Trends, DWI Resource Center, May 25, 2008. <http://www.accountablegovernment.org/dr000.htm>

20 Behavioral Health Needs and Gaps in New Mexico, the Technical Assistance Collaborative, Inc., Final Report, July 2002.

## JAIL POPULATION

Each jail facility is reviewed by a designated authority who allocates the maximum number of inmates that each facility is authorized to house at any one time. This figure is generally reported as the number of “beds” the institution may provide and is referred to as the jail’s “rated capacity”. According to the revised 2008 National Institute of Justice publication, *Prison and Jail Inmates at Midyear 2006*, the total rated capacity of all local jails in the U.S. at midyear 2006 reached 810,863 beds. On June 30, 2006, local jails nationwide operated at an average of 94% of rated capacity. Based on the peak number of inmates incarcerated on a given day during the year, local jails nationwide operated at 100% of rated capacity. The smallest jail jurisdictions (those with an average daily population of fewer than 50 inmates) generally had a lower occupancy rate. Jurisdictions with larger average daily populations generally met or exceeded their capacity.<sup>21</sup>

All county detention facilities house state inmates for various length of stay. As written in the 2005 report, *Length of Stay for Arrestees Held on Felony Charges: A Profile of Six New Mexico Detention Facilities*, many factors interact to create jail populations. These factors include the volume of local state probation office caseload, the rapid issuance of a Judgment and Sentence (J&S) by the district attorney, the accelerated transfer of the arrestee to prison, the consistent use of NMSA 33-3-9<sup>22</sup> for goodtime, all play a part in maximizing the most efficient and effective length of stay according to law.<sup>23</sup>

Jail population is a result of two factors, the number of jail admissions and the length of stay. The length of stay varies in each county:

- 68.9% of the arrestees held in local New Mexico detention facilities were charged with at least one felony and;
- 50% of arrestees held in detention centers spent almost 7 1/2 months (224days) in jail.<sup>24</sup>

The following reports on New Mexico jail inmates that were either “awaiting trial”, (charged with a felony and waiting for trial), or “sentenced”, (convicted and sentenced), in county detention facilities on June 30, 2004:

- Awaiting trial probation violators spent more than two months in jail from the time they were booked to the time they were sentenced. Median length of stay varied

21 William J. Sabol, Ph.D., Todd D. Minton and Paige M. Harrison, *Prison and Jail Inmates at Midyear 2006*, Bureau of Justice Statistic Special Report, U.S. Department of Justice, June 2007, NCJ 217675, Revised March 12, 2008.

22 33-3-9 County Jails; Deduction of Time for Good Behavior: Authorizes the sheriff or jail administrator, with the approval of the committing judge or presiding judge, to grant any person imprisoned in the county jail a deduction of time for good behavior. Deductions of time cannot exceed half of the prisoner’s sentence, as well as other restrictions pertaining to the nature of the prisoner’s offense. [http://jec.unm.edu/training/statutes/33\\_3\\_9.htm](http://jec.unm.edu/training/statutes/33_3_9.htm)

23 Paul Guerin, PhD • Linda Freeman, MA, *Length of Stay for Arrestees Held on felony Charges: A profile of Six New Mexico detention Facilities*, New Mexico Sentencing Commission, State of New Mexico, March 2005.

24 Paul Guerin, PhD • Linda Freeman, MA, *Length of Stay for Arrestees Held on felony Charges: A profile of Six New Mexico detention Facilities*, New Mexico Sentencing Commission, State of New Mexico, March 2005.

from a low of 38 days to a high of 96 days;<sup>25</sup>

- Awaiting trial arrestees on new charges spent a median of 167 days from the time they were booked to the time the case was closed by the District Court. According to a recent study, courts can exercise considerable control over how quickly cases move through the court system without sacrificing justice and;<sup>26</sup>
- Sentenced inmates were convicted to prison. Between the date these individuals were sentenced and the date they were transported to prison they spent a median of 19 days in jail.<sup>27</sup>

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25 Paul Guerin, PhD • Linda Freeman, MA, *Length of Stay for Arrestees Held on felony Charges: A profile of Six New Mexico detention Facilities*, New Mexico Sentencing Commission, State of New Mexico, March 2005.

26 Paul Guerin, PhD • Linda Freeman, MA, *Length of Stay for Arrestees Held on felony Charges: A profile of Six New Mexico detention Facilities*, New Mexico Sentencing Commission, State of New Mexico, March 2005.

27 Paul Guerin, PhD • Linda Freeman, MA, *Length of Stay for Arrestees Held on felony Charges: A profile of Six New Mexico detention Facilities*, New Mexico Sentencing Commission, State of New Mexico, March 2005.

## **STATE INMATES IN NEW MEXICO COUNTY JAILS – SNAPSHOT AS OF JULY 3, 2008.**

The following information was derived from Weekly Jail Reports from the New Mexico Department of Corrections (NMDC). These reports provide a weekly count of all offenders under their supervision, including those on probation or parole, and if they are currently in a county jail. The individual reports are then compiled into one statewide report that is submitted to the NMDC Secretary.<sup>28</sup>

“Duals” are those offenders who are on both Parole and Probation at the same time. For classification purposes, they are considered Parolees first over Probationers. For the purposes of this report they have been separated because their time in jail is not necessarily ordered or decided by the Parole Board, but may be determined by the Sentencing Judge in the District that they reside in. They may not be in jail for any Parole-related issues, but rather for possible Probation violation issues instead.

The reason for these offenders being incarcerated can vary from technical violations (i.e. drug use, failure to report, failure to comply with Parole orders) to Absconders/ Fugitives, or New Charges. Each can have a serious impact on the offender’s length of stay in the jail.

The adjacent table displays the number of Parolees in county jails on July 3, 2008 by County. There are more Probationers in the jails at the time, but since they are still under the jurisdiction of the court systems, they are not included in the count.

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<sup>28</sup> Information provided by Jeremiah Ambabo, Program Manager of the Probation/Parole Division at the New Mexico Department of Corrections.

### Parole Violators in County Jails on July 3, 2008 by County (n=148)

| County       | Number of Parolees | Number of Duals (Parolees & Probationers) | Total      |
|--------------|--------------------|-------------------------------------------|------------|
| Bernalillo   | 31                 | 13                                        | 44         |
| Catron       | 0                  | 0                                         | 0          |
| Chavez       | 3                  | 1                                         | 4          |
| Cibola       | 0                  | 2                                         | 2          |
| Colfax       | 0                  | 0                                         | 0          |
| Curry        | 5                  | 2                                         | 7          |
| De Baca      | 0                  | 0                                         | 0          |
| Dona Ana     | 11                 | 2                                         | 13         |
| Eddy         | 1                  | 3                                         | 4          |
| Grant        | 4                  | 0                                         | 4          |
| Lea          | 7                  | 0                                         | 7          |
| Lincoln      | 0                  | 0                                         | 0          |
| Luna         | 1                  | 0                                         | 1          |
| McKinley     | 1                  | 1                                         | 2          |
| Quay         | 1                  | 0                                         | 1          |
| Rio Arriba   | 1                  | 0                                         | 1          |
| Roosevelt    | 0                  | 1                                         | 1          |
| San Juan     | 35                 | 3                                         | 38         |
| San Miguel   | 2                  | 0                                         | 2          |
| Sandoval     | 5                  | 1                                         | 6          |
| Santa Fe     | 2                  | 0                                         | 2          |
| Socorro      | 3                  | 0                                         | 3          |
| Torrance     | 2                  | 0                                         | 2          |
| Union        | 0                  | 0                                         | 0          |
| Valencia     | 4                  | 0                                         | 4          |
| <b>Total</b> | <b>119</b>         | <b>29</b>                                 | <b>148</b> |

The estimated length of stay for a Parolee in a county jail is approximately 15 days. This time varies based on the reason for their incarceration. Offenders with new charges or Probation violations (for Duals) may stay longer than 30 days, while Technical Violators may stay 7 to 10 days before being released or being transported to the Reception and Diagnostic Center for a Hearing with the Parole Board.

House Bill 316 (HB 316) was enacted during the 2007 Legislative Session. HB 316 established the County Detention Facility Reimbursement Act [33-3B-1 to 33-3B-4 NMSA 1978] (Appendix E) which provides a fund for reimbursement to each county detention facility for state inmates held in their facilities. Those counties that provide information to the New Mexico Sentencing Commission regarding costs incurred for incarcerating felony offenders in county owned or contract-operated facilities are eligible for reimbursement from the fund according to a formula established by the law.

*SM 48*

The formula is based on the average number of felony offenders incarcerated in each county in the preceding three fiscal years as a percentage of the statewide total. The Sentencing Commission calculates the annual distribution amount for each eligible county, and distributes the funds on or before January 30<sup>th</sup> of each year.<sup>29</sup>

The categories of offenders eligible for reimbursement under the law are:

- Sentenced to Prison and Awaiting Transport
- Unsented Parole
- Dual Supervision Parole and Probation

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29 HB 316 Felony Offender Reimbursement (2007 Legislative session) [www.nmcounties.org/pdf/Final%20Legislative%20Bulletin%20-%202007.pdf](http://www.nmcounties.org/pdf/Final%20Legislative%20Bulletin%20-%202007.pdf)

## NATIONAL LEGISLATION

According to a June 4, 2008 National Association of Counties publication, “*County Officials Hit Capitol Hill for Support of Legislation to Restore the Federal Partnership for County Jails*”, Federal Legislation has been introduced that would affect state health care costs for individuals who immediately lose their federal health insurance benefits while being detained in county jails. Under current federal and state laws, local governments, usually counties are solely responsible for the medical expenses of jailed individuals, even those who have not been convicted of any wrongdoing.<sup>30</sup>

On April 3, 2008, the United States House of Representatives introduced Resolution 5698 (H.R. 5698) Restoring the Partnership for County Health Care Costs Act of 2008. This Bill amends titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove inmate limitations on Medicaid, Medicare, SSI, and SCHIP benefits for persons in custody pending disposition of charges.<sup>31</sup>

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30 <http://www.naco.org/PrinterTemplate.cfm?Section=Publications&template=/ContentManagement/ContentDisplay.cfm&ContentID=27176>

31 <http://www.opencongress.org/bill/110-h5698/show>

## INITIATIVES IN OTHER STATES

Many inmates come from backgrounds of poverty and have limited access to medical and dental care. A challenge facing county detention facilities is to provide quality care at the lowest possible cost. Many states have laws limiting the amount charged by providers for inmate medical care. The States that surround New Mexico that currently have systems in place to control costs are Colorado, Utah, Oklahoma, Arizona and Texas. For further information on legislation and the language for each of those states initiatives please refer to Appendix C.

The different systems of implemented regulation can be categorized and defined as follows:

- **Managed Health Care:** A managed health care system requires collaboration with community hospitals. Providing services for a fixed sum per prisoner per day, medical services covered by this rate include visits to unit clinics, hospitalization, all medicines, burial, and autopsy costs.
- **Fixed Payment:** The fixed payment delivers a built-in incentive to manage the cost and use of medical resources and techniques to provide quality care at the lowest possible cost. Utilization management measures and evaluates the use of resources, including professional staff, facilities, and services, to ensure their cost-effective use.
- **Inmate Copayments:** A strategy to reduce unnecessary use of prison health services is the use of inmate copayments for health services. Implementing inmate copayment fees of up to \$5 for health services is intended to offset part of the cost of inmate health care. An additional intent is to reduce the number of unnecessary medical visits. Copayment plans reduce waste while generating revenues. A copayment system can generate revenue; with the possibility that a percentage could remain uncollected from inmates, while reducing the number of requests for medical visits.

# COUNTY INMATE HEALTH PROVIDER REINBURSEMENT SURVEY

## Methodology

HPC staff, in coordination with the SM 48 task force, developed the *County Inmate Health Provider Reimbursement Survey* (Appendix B). The purpose of the survey was to generate responses from the county detention facilities to determine current costs, inmate per day costs, availability and accessibility of health care delivered to county detention inmates. The primary health care categories addressed in the survey were medical, behavioral health, dental, and pharmacy.

An e-mailed questionnaire was sent to each county detention facility in New Mexico. In an effort to maximize response to the survey, follow up phone calls were made to the facilities to answer questions and to stress the importance of participation.

A list of detention administrators was obtained from detention affiliates members. A roster is maintained by the administrative staff of the San Miguel County Detention Center. HPC Staff eliminated the counties that did not maintain a detention facility, such as Harding, Mora, Torrance, and Union counties, or only housed juveniles for which the survey was not applicable (Appendix D). This reduced the list to 29 county detention facilities that were applicable.

Questions for each detention facility included, annual health care costs, cost of healthcare per inmate per day, type of primary funding. Percentages that totaled 100% of primary health care categories such as Medical, Behavioral Health, Dental and Pharmacy were questions that were targeted. The top five billable diagnoses in each category and the top five pharmacy costs were included. The hospitals and providers that each detention facility used were also included. The concern for reduction in services for each category was also asked in the survey.

Collection of the results was based upon the distinctiveness of each detention facility. Responses to the survey were received and noted. Four surveys were received by fax and manually entered for data collection.

## Summary of Results

As of July 1, 2008, a total of 22 counties returned their survey to the HPC. Of the 22 surveys; 2 surveys were inapplicable. Refer to the survey in Appendix B for the questions and instructions. The following provides the responses to the survey:

Are annual inmate medical costs included in total administrative costs?

- 60% responses were yes.
- 40% responses were no.

The primary source of annual health care funding.

- 88.1% was county/local funding.
- 5.71% was state funding.
- 13.8% was federal funding.

The percentages spent of annual healthcare costs.

- 47.97% answered medical.
- 10.11% answered behavioral health.
- 6.25% answered dental.
- 36.70% answered pharmacy.

The percentages spent of annual hospital costs.

- 21.56% answered inpatient medical.
- 62.65% answered outpatient medical.
- 3.35% answered behavioral health.
- 2.20% answered dental.
- 15.12% answered pharmacy.

The percentages spent of annual non-hospital costs.

- 43% answered outpatient medical.
- 7.56% answered behavioral health.
- 7.50% answered dental.
- 48.33% answered pharmacy.

The top five medical diagnoses which are billed were:

- Diabetes
- Hypertension
- Backache
- Infections
- Insomnia and Anxiety

The top five behavioral health diagnoses which are billed were:

- Depression
- Bi-Polar
- Anxiety
- Schizophrenia
- Post Traumatic Stress Disorder

The top five dental diagnoses which are billed were:

- Extraction
- Cavity
- Gum Disease
- Abscess
- Tooth Decay

The top five prescription drugs which are billed were:

- Ibuprofen
- Seroquel
- Diabetic medications
- Hydroxyzine
- Zanax

A total of 21 respondents indicated the hospitals or medical centers used (a total of 27 were identified); non-hospital/offsite medical providers used (11 Clinics, 9 Hospitals, 8 Specialty services, and 28 Medical Doctors were identified); on-site medical providers used (5 Hospitals or Clinics, 11 Specialty services and 29 Medical Doctors were identified); behavioral health providers used (8 Counseling or Mental Health Centers, 6 Medical Doctors, 3 Licensed Professional Clinical Counselor, 2 Clinics, 2 Licensed Alcohol and Drug Counselors and 2 Certified Nurse Practitioners, and one Psychologist were identified); dental provider used (individual dentists and clinics including Indian Health Services were indicated); and the pharmacy providers used (both local and national providers were indicated) for inmate health care. This information varied for each county detention facility according to availability and location.

If there is a reduction in reimbursement rates:

- 94.1% were concerned about losing medical providers.
- 70.6% were concerned about losing behavioral health providers.
- 70.6% were concerned about losing dental providers.
- 70.6% were concerned about losing pharmacy providers.

## CONCLUSIONS AND RECOMMENDATIONS

Research related to this report revealed the complexity surrounding the increasing cost of health care for the New Mexico inmate population in the State of New Mexico. The mechanisms for ensuring that New Mexico county detention facilities provide health care, including mental health care, to individuals in the custody of county detention facilities are vital.

Consistent with the Memorial's statement the task force developed recommendations for the Legislature to consider that could establish health care provider reimbursement for health care delivered to individuals in the custody of county detention facilities.

The following is a list of SM 48 Taskforce recommendations all of which were consensus recommendations:

**1. Medical services provided by health care providers to inmates incarcerated in New Mexico detention facilities should be paid at the workers compensation schedule of charges plus gross receipts tax, or at a payment rate agreed to by contract between the health care provider and the facility.**

This recommendation allows for counties that have not contracted for health care services to pay at the Workers Compensation maximum allowable rate plus gross receipts tax rate while allowing counties that currently have contracts in place to continue using existing payment methodology without interruption.

**(Legislation)**

**2. New Mexico Corrections Department should assume all financial responsibility for health care costs for felony offenders in county detention facilities or remove them from the facility within 24 hours of booking.**

The state prison takes responsibility for inmate health care when they are received at a prison facility. Inmates who are first taken to a county detention facility receive medical care from the county detention facility until they are transferred to a prison. The healthcare costs incurred during this length of stay is reimbursed from the state prison to the county detention facility according to the formula established in [33-3B-1 to 33-3B-4 NMSA 1978].

At this time, there is no set time limit for state inmates to be transferred to a prison from a county detention facility. Times can vary greatly depending on why the inmate was taken to the county detention facility. For example, inmates awaiting a trial may stay in a county detention facility for 30 days or more before transferring to a prison, whereas inmates arrested for a Parole violation may only stay at the county detention facility for a week before being transferred.

**(Legislation)**

**3. The Legislature should direct the appropriate state government department to solicit bids to administer healthcare provider programs for county detention facilities.**

The Survey revealed that currently the total annual inmate health care costs vary throughout the counties. A Request for Proposals (RFP) could be announced for health care services for county detention facilities. Proposals created could have the stipulations include health care services provided, fee schedule guidelines, length of contract, and a deliverable budget. Provisions requiring a managed health care system that collaborates with community hospitals in each county to provide services for a fixed sum per prisoner per day. Medical services covered by this rate should include visits to unit clinics, hospitalization, all medicines, burial and autopsy costs. A one management system which controls administration could avoid duplication and result in savings.

**(Legislation)**

**4. The Legislature should direct the Health Policy Commission to study the statewide purchase of health care service for county detention facilities.**

This recommendation for the HPC to study the statewide purchase of health care service for county detention facilities could be attached to the current task of the Health Policy Commission. Currently, in response to Joint Memorial 5 of the 2007<sup>th</sup> Legislative session, the HPC is conducting a research project to identify state departments and publicly funded health care agencies to participate in bulk purchasing of durable medical equipment, health care supplies and pharmaceuticals.

This recommendation for the HPC to study the statewide purchase of health care service for county detention facilities could also be introduced as a Memorial - *The HPC study the statewide purchase of healthcare services for county detention facilities*. If county detention facilities were represented as one purchasing unit, the purchase of health care services and pharmaceuticals could result in cost savings. Studies show manufacturers and distributors are more likely to negotiate favorable pricing with larger-volume purchasing units. A statewide list of preferred providers and formularies could be created for county detention facilities to utilize. The survey could identify existing hospitals, providers and pharmacies the jails are currently using.

**(Memorial)**



# Appendix A





SENATE MEMORIAL 48

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Richard C. Martinez

A MEMORIAL

REQUESTING THE NEW MEXICO HEALTH POLICY COMMISSION TO CONVENE A TASK FORCE TO STUDY HEALTH CARE PROVIDER REIMBURSEMENT FOR HEALTH CARE DELIVERED TO INDIVIDUALS IN THE CUSTODY OF COUNTY DETENTION FACILITIES.

WHEREAS, county detention facilities provide health care, including mental health care, to individuals in the custody of county detention facilities; and

WHEREAS, county detention facilities experience serious difficulties in obtaining fair rates from health care providers; and

WHEREAS, the problem of obtaining fair health care provider rates is exacerbated by the fact that individuals in custody automatically lose medicaid eligibility upon entry into the county detention system; and

WHEREAS, the inability of county detention facilities to secure affordable health care provider rates limits the ability of county governments to be appropriately accountable to local taxpayers for these costs; and

WHEREAS, the New Mexico association of counties seeks to implement policy that would require health care providers that receive

any state taxpayer money to charge county detention facilities at the same reimbursement rates they charge for medicaid or any other state program in which the providers participate;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NEW MEXICO that the New Mexico health policy commission convene a task force consisting of representatives from the New Mexico association of counties, the department of health, the human services department, health care providers who provide care to county detention facility inmates, the corrections department, the New Mexico medical society and the New Mexico primary care association; and

BE IT FURTHER RESOLVED that the task force be charged with developing recommendations for health care provider reimbursement for health care delivered to individuals in county detention facility custody; and

BE IT FURTHER RESOLVED that the task force present recommendations to the legislative health and human services committee by November 1, 2008; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the director of the New Mexico health policy commission, the president of the New Mexico association of counties, the chair and vice chair of the 2008 legislative health and human services committee, the secretary of health, the secretary of human services, the secretary of corrections, the president of the New Mexico medical society and the president of the New Mexico primary care association.

# Appendix B





## SM 48 Questionnaire

Instructions: Please answer the following survey questions concerning the inmate population of your correctional facility. For any questions that you do not have data, please answer *No Data Available*.

1. What are your total annual inmate healthcare costs?

\_\_\_\_\_

2. What is your average cost of healthcare per inmate per day?

\_\_\_\_\_

3. Are your annual inmate medical costs included in your total annual administrative costs?

[  ] Yes

[  ] No

4. What percentage of your annual healthcare funding is from:  
[PERCENTAGES MUST ADD TO 100 PERCENT]

a. County/Local funding sources  
(i.e., Indigent Fund/County General Fund)? \_\_\_\_\_

b. State funding sources? \_\_\_\_\_

c. Federal funding sources? \_\_\_\_\_

5. What percentage of your annual healthcare costs is:  
[PERCENTAGES MUST ADD TO 100 PERCENT]

a. Medical? \_\_\_\_\_

b. Behavioral health? \_\_\_\_\_

c. Dental? \_\_\_\_\_

d. Pharmacy? \_\_\_\_\_

6. What percentage of your annual hospital costs is:  
[PERCENTAGES MUST ADD TO 100 PERCENT]

- a. Inpatient medical? \_\_\_\_\_
- b. Outpatient medical? \_\_\_\_\_
- c. Behavioral health? \_\_\_\_\_
- d. Dental? \_\_\_\_\_
- e. Pharmacy? \_\_\_\_\_

7. What percentage of your annual non-hospital based costs is:  
[PERCENTAGES MUST ADD TO 100 PERCENT]

- a. Medical? \_\_\_\_\_
- b. Behavioral health? \_\_\_\_\_
- c. Dental? \_\_\_\_\_
- d. Pharmacy? \_\_\_\_\_

8. What are your top five medical diagnoses for which you bill?

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_

9. What are your top five behavioral health diagnoses for which you bill?

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_

d. \_\_\_\_\_

e. \_\_\_\_\_

10. What are your top five dental diagnoses for which you bill?

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

d. \_\_\_\_\_

e. \_\_\_\_\_

11. What are your top five prescription drugs for which you bill?

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

d. \_\_\_\_\_

e. \_\_\_\_\_

12. To which hospital(s) do you take your inmates?  
[PLEASE ANSWER FOR AS MANY PROVIDERS AS YOU HAVE]

Name of Provider 1: \_\_\_\_\_

Name of Provider 2: \_\_\_\_\_

Name of Provider 3: \_\_\_\_\_

Name of Provider 4: \_\_\_\_\_

Name of Provider 5: \_\_\_\_\_

13. To which non-hospital/off-site medical provider(s) do you take your inmates?  
[PLEASE ANSWER FOR AS MANY PROVIDERS AS YOU HAVE]

Name of Provider 1: \_\_\_\_\_

Name of Provider 2: \_\_\_\_\_

Name of Provider 3: \_\_\_\_\_

Name of Provider 4: \_\_\_\_\_

Name of Provider 5: \_\_\_\_\_

14. Who is your on-site medical provider? List the name and license type [Medical Doctor, Physician Assistant, Nurse Practitioner, Nurse, Other]  
[PLEASE ANSWER FOR MANY PROVIDERS AS YOU HAVE]

Name and type of license of Provider 1: \_\_\_\_\_

Name and type of license of Provider 2: \_\_\_\_\_

Name and type of license of Provider 3: \_\_\_\_\_

Name and type of license of Provider 4: \_\_\_\_\_

Name and type of license of Provider 5: \_\_\_\_\_

15. Who is your behavioral health provider(s)? List the name and license type [Medical Doctor, Physician Assistant, Nurse Practitioner, Nurse, Other]  
[PLEASE ANSWER FOR MANY PROVIDERS AS YOU HAVE]

Name and type of license of Provider 1: \_\_\_\_\_

Name and type of license of Provider 2: \_\_\_\_\_

Name and type of license of Provider 3: \_\_\_\_\_

Name and type of license of Provider 4: \_\_\_\_\_

Name and type of license of Provider 5: \_\_\_\_\_

16. Who is your dental provider(s)? List the name and license type [Dentist, Dental Hygienist]  
[PLEASE ANSWER FOR MANY PROVIDERS AS YOU HAVE]

Name and type of license of Provider 1: \_\_\_\_\_

Name and type of license of Provider 2: \_\_\_\_\_

Name and type of license of Provider 3: \_\_\_\_\_

Name and type of license of Provider 4: \_\_\_\_\_

Name and type of license of Provider 5: \_\_\_\_\_

17. Who is your pharmacy provider(s)?  
[PLEASE ANSWER FOR MANY PROVIDERS AS YOU HAVE]

Name of Provider 1: \_\_\_\_\_

Name of Provider 2: \_\_\_\_\_

Name of Provider 3: \_\_\_\_\_

Name of Provider 4: \_\_\_\_\_

Name of Provider 5: \_\_\_\_\_

18. If there were a reduction in reimbursement rates, are you concerned about losing:  
[PLEASE CHECK ALL THAT APPLY]

- a. Medical provider(s)? [ ]
- b. Behavioral health provider(s)? [ ]
- c. Dental provider(s)? [ ]
- d. Pharmacy provider(s)? [ ]

19. What percent of your residents are perpetrators of domestic violence?

\_\_\_\_\_

20. What percent of your residents are victims of domestic violence?

\_\_\_\_\_



# Appendix C





## OTHER STATES INITIATIVES AND LEGISLATION

### **COLORADO**

#### **SENATE BILL 03-141**

CONCERNING PERSONS CONVICTED OF A CRIME, AND, IN CONNECTION THEREWITH, WAIVING CERTAIN FEES, ESTABLISHING REIMBURSEMENT RATES FOR MEDICAL CARE, AND AUTHORIZING MEDICAL CARE AT STATE HOSPITALS.

Senate Bill 03-141 (SB03-141) was introduced January 24, 2003 and signed by the governor on May, 14, 2003.

After a judgment is entered for costs against a person convicted of a crime, waives the fees for issuance and recording of a transcript of the judgment. This bill requires state-supported hospitals, subject to available space, to provide medical care to persons held in county jails. This bill requires county personnel to assist a person held in a county jail who may be eligible for Medicaid or social security disability income upon release in applying for such benefits. If requested by a county sheriff, directs the departments of health care policy and financing (DHCPF) and human services to provide training to county personnel.

SB 03-141 specifies the county of residence for a person being released from a county jail. Directs the DHCPF to promulgate rules covering persons being released from county jails and to allow eligible persons to access assistance upon release and thereafter. SB 03-141 authorizes county sheriffs to enter into prerelease agreements to assist persons released from county jails in receiving benefits.

(<http://www.leg.state.co.us/2003a/inetcbill.nsf/Frameset?ReadForm&viewname=1&resultformat=1>)

Charge same as Medicaid. Use Mental Health Institute at Pueblo.

### **UTAH**

#### **First Substitute H.B. 121**

In the 2008 Utah Legislative session, House Bill 121 (HB 121) County Charges for Services to Incarcerated Persons was introduced on February 15, 2008. The bill was then amended on February 28, 2008 and substituted to House Bill 121 Substitute (HBO 121 SO1) on March 3, 2008. The governor signed the bill on March 17, 2008. Enactment of this bill could result in costs savings for counties currently paying above Medicaid rates for incarcerated individuals.

(<http://le.utah.gov/~2008/htmdoc/hbillhtm/hb0121s01.htm>)

## **OKLAHOMA**

### **HB 1621 Inmate medical care-Modify expense payment requirements.**

2007 Regular Session

Section 3 NEW LAW

The Department of Corrections shall reimburse health care providers for medical care and treatment for inmates retained in county jails after a certified copy of a judgment and sentence has been entered pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the provisions of Section 988.12 or 991a-2 of Title 22 of the Oklahoma Statutes. Health care providers that are in the network established by the Department of Corrections in conjunction with the State and Education Employees Group Insurance Board shall be reimbursed according to the fee schedule established for that network; provided, that reimbursement will be no less than the fee structure that was in effect January 1, 2007, or the current fee schedule, whichever is greater. Health care providers that are out-of-network shall be reimbursed according to the Oklahoma Medicaid Fee Schedule; provided, that reimbursement shall be no less than the fee structure that was in effect January 1, 2007, or the current fee schedule, whichever is greater. Prior to obtaining nonemergency care outside the county jail facility, authorization must be received from the Department of Corrections. For any emergency care, dental emergency or mental health emergency care obtained outside the county jail facility, the Department of Corrections must be notified within twenty-four (24) hours. The Department of Corrections is hereby authorized to reject claims if proper notification has not been provided.

Each county jail is encouraged to work with local community health centers to provide meds and emergencies services that would be reimbursed pursuant to the provisions of subsection.

Signed May 22, 2007

[http://webserver1.lsb.state.ok.us/2007-08bills/HB/HB1621\\_ENGR.RTF](http://webserver1.lsb.state.ok.us/2007-08bills/HB/HB1621_ENGR.RTF)

## **ARIZONA**

### **SB 1268**

In the 46<sup>th</sup> Arizona State Legislature 1<sup>st</sup> regular session 2003.

A. Subject to the approval of the county board of supervisors or the board of directors of a county jail district, the sheriff may charge each inmate who is committed to jail by competent authority a reasonable fee or copayment of not more than ~~three~~ TEN dollars for each inmate initiated health service that is provided, FOR EACH MEDICAL VISIT TO A PHYSICIAN THAT IS REFERRED BY A PHYSICIAN, A PHYSICIAN ASSISTANT OR NURSE PRACTITIONER or for prescription drugs that a county jail health services agency dispenses to an inmate. An inmate shall not be refused health services for financial reasons.

B. If the sheriff is not prohibited from charging a health care services fee or a copayment at the time the service is provided or prescription dispensed as provided in subsection D of this section, the sheriff may maintain a negative balance on an inmate's personal

account against which future collections may be made.

C. All fees or copayments for health services that the county collects shall be deposited in the inmate health services fund established by section ~~31-152~~ 31-162.

D. Notwithstanding section 11-291, each county sheriff for the purposes of collecting fees or copayments under this section from inmates under the sheriff's jurisdiction may charge a fee authorized under subsection A of this section except the sheriff shall not charge an inmate a health CARE services fee or copayment if the inmate maintains a balance in the inmate's personal account of less than ~~three~~ TEN dollars for thirty consecutive days.

E. A sheriff may exempt inmates with certain medical conditions from the payment of health ~~service~~ CARE SERVICES fees or copayments.

APPROVED BY THE GOVERNOR APRIL 22, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 2003.

The Arizona Department of Corrects (ADC) contract with 10 outside health care facilities for major medical treatment and each provider serves a different geographic area. Med. Contracts are awarded for 5 year period. 3 of 10 providers must go through a competitive bid process for the contract. The other 7 providers directly negotiate the contract with ADC for "sole provider" of a particular service.

Telemedicine has provided inmate healthcare services since 1996 and continues to expand w/new providers enrolling. Inmates are charged \$3 co-pay for medical appointments. This fee is deducted from the prisoners' spendable account and is deposited into the General Fund for reduction of agency costs.

<http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/46leg/1R/laws/0085.htm>

## **TEXAS**

### **Code of Criminal Procedure article 104.002(d)**

A county may deduct from a county-jail inmate's account funds necessary to recover the costs of medical expenses incurred during a previous term of incarceration in the county jail, for which the inmate is required to reimburse the county under Code of Criminal Procedure article 104.002(d). The county must comply with applicable due-process requirements.

Inmate is responsible for reimbursement to county for healthcare costs through deduction of county-jail inmates account funds.

<http://tlo2.tlc.state.tx.us/statutes/docs/CR/content/word/cr.002.00.000104.00.doc>

## **MONTANA**

### **SB 370**

Specifies when an inmate and when a county are responsible for the medical expenses of the inmate held in a county detention facility.

Requires a health care provider to collect payments for treatment from the inmate when the inmate is responsible.

Effective May 5, 2003

Chapter No. 579

[http://64.233.167.104/search?q=cache:XrldVtczAoEJ:leg.mt.gov/content/publications/committees/interim/2003\\_2004/edu\\_local\\_gov/LOCAL%2520GOVERNMENT%2520LEGISLATION%2520APPROVEDBY%2520THE%25202003%2520MONTANA.pdf+Montana+legislation+on+inmate+healthcare&hl=en&ct=clnk&cd=2&gl=us](http://64.233.167.104/search?q=cache:XrldVtczAoEJ:leg.mt.gov/content/publications/committees/interim/2003_2004/edu_local_gov/LOCAL%2520GOVERNMENT%2520LEGISLATION%2520APPROVEDBY%2520THE%25202003%2520MONTANA.pdf+Montana+legislation+on+inmate+healthcare&hl=en&ct=clnk&cd=2&gl=us)

Inmate is responsible if capable at 3<sup>rd</sup> party cost within 120 days. If not paid, county responsible at Medicaid reimbursement rate or 70% providers charges whichever is greater or a negotiated rate. If 3<sup>rd</sup> party pays after county has paid, healthcare provider refunds county.

## **INDIANA**

### **HB 1175**

2005 Legislative session

Citations Affected: IC 11-12.

Synopsis: Inmate medical care expenses. Allows a court to order a county jail inmate to reimburse a county for any medical care expenses incurred by the county in providing medical care to the inmate as a term of a sentence. Provides that, if the court does not issue an order, the county may bring an action to recover the medical care expenses. Provides exceptions for certain county jail inmates.

Effective: July 1, 2005.

Inmate is responsible if capable. County reimburses at rate equal to network contract of County Healthcare plan.

<http://www.in.gov/legislative/bills/2005/HB/HB1175.1.html>

# Appendix D





## Location of Detention Facility Used by County

| COUNTY     | FACILITY | NO FACILITY | FACILITY USED                                                                                               |
|------------|----------|-------------|-------------------------------------------------------------------------------------------------------------|
| Bernalillo | X        |             |                                                                                                             |
| Catron     | X        |             |                                                                                                             |
| Chaves     | X        |             |                                                                                                             |
| Cibola     | X        |             |                                                                                                             |
| Colfax     | X        |             |                                                                                                             |
| Curry      | X        |             |                                                                                                             |
| De Baca    | X        |             |                                                                                                             |
| Dona Ana   | X        |             |                                                                                                             |
| Eddy       | X        |             |                                                                                                             |
| Grant      | X        |             |                                                                                                             |
| Guadalupe  | X        |             |                                                                                                             |
| Harding    |          | X           | San Miguel                                                                                                  |
| Hidalgo    | X        |             |                                                                                                             |
| Lea        | X        |             |                                                                                                             |
| Lincoln    | X        |             |                                                                                                             |
| Los Alamos | X        |             |                                                                                                             |
| Luna       | X        |             |                                                                                                             |
| Mc Kinley  | X        |             |                                                                                                             |
| Mora       |          | X           | San Miguel                                                                                                  |
| Otero      | X        |             |                                                                                                             |
| Quay       | X        |             |                                                                                                             |
| Rio Arriba | X        |             |                                                                                                             |
| Roosevelt  | X        |             |                                                                                                             |
| San Juan   | X        |             |                                                                                                             |
| San Miguel | X        |             |                                                                                                             |
| Sandoval   | X        |             |                                                                                                             |
| Santa Fe   | X        |             |                                                                                                             |
| Sierra     | X        |             |                                                                                                             |
| Socorro    | X        |             |                                                                                                             |
| Taos       | X        |             |                                                                                                             |
| Torrance   |          | X           | Corrections Corporation of America (CCA) is a private company that is not a county jail in Torrance County. |
| Union      |          | X           | Utilizes a municipal facility in Clayton, NM.                                                               |
| Valencia   | X        |             |                                                                                                             |



# Appendix E





# ARTICLE 3B

## County Detention Facility Reimbursement Act

### 33-3B-1. Short title.

This act [[33-3B-1](#) to [33-3B-4](#) NMSA 1978] may be cited as the “County Detention Facility Reimbursement Act”.

### 33-3B-2. Definitions.

As used in the County Detention Facility Reimbursement Act [[33-3A-1](#) NMSA 1978]:

A. “county detention facility” means a facility that is owned, operated or under contract of operation by a board of county commissioners and that is used for the incarceration of prisoners charged with or convicted of a violation of local, state, tribal, federal or international law;

B. “division” means the local government division of the department of finance and administration;

C. “dual supervision offender” means an individual who is serving a probation term and a parole term;

D. “eligible county” means a county that provides information to the New Mexico sentencing commission regarding costs incurred by the county for the incarceration of felony offenders;

E. “felony offender” means an individual who is convicted of a felony and sentenced to confinement in a correctional facility designated by the corrections department and who:

(1) has been released from confinement and is a dual supervision offender and:

(a) has violated parole or is charged with a parole violation;

(b) has violated probation or is charged with a probation violation; or

(c) while on probation or parole, is charged with a violation of local,

state, tribal, federal or international law;

(2) has been released from confinement and is serving a parole term and:

(a) has violated parole or is charged with a parole violation; or

(b) while on parole, is charged with a violation of local, state, tribal,

federal or international law; or

(3) is awaiting transportation and commitment to the corrections department following the revocation of parole or a sentencing hearing for a felony conviction; and

F. “fund” means the county detention facility reimbursement fund.

### 33-3B-3. Incarceration of felony offenders in county detention facilities; rate of reimbursement.

A. The distribution amount for each eligible county each fiscal year shall be derived by multiplying the total amount of money available in the fund for distribution pursuant to this section by the felony offender incarceration percentage for that county. The felony offender incarceration percentage shall be equal to a fraction:

(1) the numerator of which is the rolling average of the number of felony

offenders incarcerated in an eligible county on June 30 of each of the three fiscal years immediately preceding the fiscal year in which the distribution is to be made pursuant to Section 4 [33-3A-4 NMSA 1978] of the County Detention Facility Reimbursement Act; and

(2) the denominator of which is the rolling average of the number of felony offenders incarcerated in all eligible counties on June 30 of each of the three fiscal years immediately preceding the fiscal year in which the distribution is to be made pursuant to Section 4 of the County Detention Facility Reimbursement Act.

B. Annually, on or before December 1, the New Mexico sentencing commission shall:

(1) determine the felony offender incarceration percentage for each eligible county;

(2) calculate the distribution amount for each eligible county by applying the formula in Subsection A of this section; and

(3) certify to the division the felony incarceration percentage and the distribution amount for each eligible county.

#### **33-3B-4. County detention facility reimbursement fund created; distribution.**

A. The “county detention facility reimbursement fund” is created in the state treasury. The fund consists of appropriations, gifts, grants, donations and bequests made to the fund. Money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year, and income from investment of the fund shall be credited to the fund. The division shall administer the fund, and money in the fund is appropriated to the division to make distributions to counties in accordance with Subsection B of this section. Disbursements from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the division. No money in the fund shall be expended by the division for the purpose of administering the fund.

B. Annually, on or before January 30 and to the extent money in the fund is available for such purposes, money in the fund shall be distributed by the state treasurer as follows:

(1) an amount equal to seventy percent of the fund less thirty thousand dollars (\$30,000) to eligible counties in the amounts certified to the division in accordance with Section 3 [33-3A-3 NMSA 1978] of the County Detention Facility Reimbursement Act;

(2) thirty thousand dollars (\$30,000) to the New Mexico sentencing commission to fund the annual calculation of the felony offender incarceration percentage and the distribution amount for each eligible county; and

(3) the remainder of the fund to counties other than class A counties that are designated by the division as needing additional resources due to inadequate base revenues.

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