

SUBJECT: Annual health care fee and over-the-counter medications for inmates

COMMITTEE: Corrections — favorable, without amendment

VOTE: 8 ayes — Madden, Allen, Hunter, Marquez, Parker, Perry, White, Workman

0 nays

1 absent — Cain

WITNESSES: For — None

Against — None

On — Owen Murray, UTMB; Matt Simpson, ACLU of Texas; Ana Yáñez Correa, Texas Criminal Justice Coalition

BACKGROUND: The system used to deliver health care to prison inmates is based on a managed care model and operated by the Correctional Managed Health Care Committee (CMHCC). The Texas Department of Criminal Justice (TDCJ) contracts through the committee with the University of Texas Medical Branch (UTMB) at Galveston and the Texas Tech University Health Sciences Center (TTUHSC) to provide the statewide managed care network, which is similar to health maintenance organizations operating in the open market.

Texas prison inmates are required to make a \$3 copayment to TDCJ when they initiate a visit to a health care provider. The copayment is paid from the inmates' trust funds. If the balance in an inmate's trust fund is insufficient to cover the copayment, 50 percent of each deposit is applied toward the balance until the copayment is paid. TDCJ cannot deny an inmate access to health care due to a failure or inability to make a copayment.

DIGEST: HB 26 would require prison inmates to pay a \$100 annual health care fee upon accessing the inmate health care system, require TDCJ to offer some over-the-counter medications in prison commissaries, require TDCJ to house inmates by health conditions, require TDCJ to develop and

implement a training program for corrections medication aides, and exempt some health facilities performing dialysis on offenders from certain licensing requirements.

The bill would take effect on the 91st day after the last day of the legislative session.

Inmate health care fee. The bill would require inmates in TDCJ facilities other than halfway houses to pay an annual health care services fee of \$100. It also would eliminate the current requirement that inmates make copayments of \$3 for each initiated health care visit. Inmates would have to pay the new fee when they initiated a visit to a health care provider, and it would cover all visits to a health care provider for one year.

The fee would be paid from inmates' trust funds. If the balance of the inmate's trust fund was insufficient to pay the fee, half of each deposit made to the fund would be applied to the fee until it was paid. TDCJ could not deny inmates access to health care because they failed to pay the fee. Funds raised through the fee would be treated like funds raised through the current copayment and deposited into an account in the General Revenue Fund used only to pay the costs of correctional health care.

The bill no longer would prohibit TDCJ from charging a copayment for health care provided in response to a life-threatening or emergency situation, initiated by the department, or initiated by a health care provider or as part of routine follow-up, prenatal, or chronic care.

Over-the-counter medications. TDCJ would be required to make over-the-counter medication available for inmates to buy in prison commissaries. TDCJ could not deny an inmate access to over-the-counter medicines because of an inability to pay for them. Profits from prison commissaries would have to be used to pay the cost of over-the-counter medications for those who were unable to pay. TDCJ could adopt policies concerning the types and quantities of over-the-counter medication sold.

Housing inmates by health conditions. TDCJ would be required to adopt policies to manage inmate populations based on similar health conditions. The policies would have to maximize organizational efficiencies and reduce health care costs by housing inmates with similar health conditions in the same unit or in units served by or located near the necessary specialty health care providers.

Corrections medication aides. TDCJ, with the UTMB and TTUHSC, would be required to develop and implement a training program for corrections medication aides. The program would have to use a curriculum specific to administering medication in correctional settings. TDCJ would be required to submit an application for the approval of a training program to the Department of Aging and Disability Services (DADS). The training program would have to be developed and submitted for approval by January 1, 2012.

The executive commissioner of the Health and Human Services Commission (HHSC) would have to establish standards and procedures for the approval of a corrections medication aide training program and requirements for corrections medication aide permits and also would have to determine what was within a corrections medication aide's scope of practice. The HHSC executive commissioner would have to establish the standards, requirements, acts, and practices by January 1, 2012.

Licensing exemption for inmate renal disease facilities. HB 26 would exempt certain end-stage renal disease facilities operating under the inmate managed health care system from state licensing requirements. Exemptions would apply to hospitals operated by or for Texas as part of the inmate managed health care system, if they provided dialysis only to persons receiving inpatient services from the hospital or outpatient services while imprisoned by TDCJ, and to end-stage renal disease facilities operated by or for Texas as part of the inmate managed health care network, if they provided dialysis only to persons confined by TDCJ.

**SUPPORTERS
SAY:**

HB 26 would implement important changes to help mitigate reductions to state funding for inmate health care in fiscal 2012-13. The bill could generate as much as \$13 million for correctional health care and reduce potential cuts in inmate health care personnel and services.

Inmate health care fee. Imposing an annual \$100 health care fee on nonindigent inmates would be an appropriate way to help fund inmate health care and would correspond with what many unconfined Texans already must do. The annual fee would not be a significant policy change from the \$3 copayment per visit that inmates are charged now. The new fee would amount to only about \$8 per month, which would be affordable for many offenders.

Inmates without funds would not be denied health care. Usually, about 40 to 50 percent of inmates have less than \$5 in their trust funds, and, as under current law, TDCJ would be prohibited from denying access to health care to these inmates based on inability to pay. Inmates' families who lacked adequate resources also would not be burdened with attempting to pay the fee, since indigent inmates would continue to receive care.

The bill would establish a fair way to pay off the fee for those who did not have \$100 at the time of a first medical visit by requiring 50 percent of deposits to go toward the balance.

Over-the-counter medications. Allowing inmates to purchase some over-the-counter medications in prison commissaries would improve access to drugs for inmates, who would no longer have to complete the sick-call process, and would allow health care personnel to treat inmates with more serious health problems. Indigent inmates could not be denied over-the-counter medications, which would be funded by commissary profits. TDCJ would be authorized to adopt over-the-counter drug policies to ensure the safety of inmates and staff.

Housing inmates by health conditions. Requiring TDCJ to adopt policies to house together inmates with similar health conditions would use health care resources more efficiently. Health care staff and equipment could be better aligned and nearer to the populations that needed them. Although TDCJ endeavors to make this happen now, HB 26 would ensure that it occurred to the fullest extent.

Corrections medication aides. Authorizing a training program specifically for corrections medication aides would ensure that persons dispensing medicines in prisons were appropriately trained and would expand this cost-efficient way of delivering drugs. Currently, medicine is dispensed through so-called "pill windows" by nurses or aides. These aides have completed a training program focused on nursing homes, not correctional facilities, running for four hours per day. A specific program focused on dispensing correctional medication would be specialized and offered eight hours per day, reducing training time and potentially expanding the number of persons seeking certification. This could allow nurses to be shifted to other duties.

Licensing exemption for inmate renal disease facilities. By including correctional facilities that performed dialysis for Texas prison inmates with other entities excluded from renal facility licensing requirements, HB 26 would allow the Hospital Galveston, the state-owned hospital that treats TDCJ inmates, to perform dialysis on both an inpatient and outpatient level. Currently, all dialysis must be performed on an inpatient level, which is unnecessary and costly. The bill also would allow current TDCJ dialysis facilities to expand if needed without meeting licensing requirements that involve costly construction. Other oversight mechanisms would continue to ensure that the quality of dialysis care was appropriate.

OPPONENTS
SAY:

Inmate health care fee. It would be inappropriate for Texas to charge incarcerated persons such a large annual fee for health care. The state has a duty to care for the people it incarcerates, and medical care should be part of that duty. A \$100 annual fee would be a significant departure from the current \$3 copayment per visit. The burden for the new fee most likely would unfairly fall upon the families of inmates, many of whom cannot afford it.

Over-the-counter medications. By requiring inmates to pay for over-the-counter drugs and using commissary profits to provide over-the-counter drugs to indigent inmates, HB 26 would shift some health care costs to inmate families, many of whom have limited resources.

OTHER
OPPONENTS
SAY:

It would be best to place a Sunset date on some of the provisions in HB 26, such as the inmate health care fee, to ensure that it would be evaluated in two or four years.

NOTES:

The provisions in HB 26 were included as a floor amendment by Rep. Madden to SB 1 by Pitts, 82nd Legislature, first called session, which passed the House by 83-62 on June 10. The Senate appointed conferees for a conference committee on the bill on June 13.

According to the fiscal note, the bill would have a positive impact on the state of \$9.9 million during fiscal 2012-13.