

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2019-135
HOUSE BILL 106

AN ACT TO IMPROVE INMATE HEALTH CARE REIMBURSEMENT AND INTERNAL PROCESSES AND TO ESTABLISH A TELEMEDICINE PILOT PROGRAM; IN ADDITION TO DIRECTING THE DEPARTMENT OF PUBLIC SAFETY TO PARTNER WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR THE PURCHASE OF CERTAIN MEDICATIONS FOR INMATES, TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO ISSUE REQUESTS FOR PROPOSALS FOR PARTNERSHIPS BETWEEN NORTH CAROLINA 340B PROGRAM ENTITIES AND THE FOUR NORTH CAROLINA PRISON REGIONS, TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO PARTNER WITH THE UNIVERSITY OF NORTH CAROLINA HEALTH SYSTEM TO SHIFT PRESCRIBING AUTHORITY ON CERTAIN MEDICATIONS, AND TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO SUBMIT VARIOUS REPORTS TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY AND THE FISCAL RESEARCH DIVISION.

The General Assembly of North Carolina enacts:

PART I. INMATE HEALTH CARE REIMBURSEMENT AND INTERNAL PROCESSES AND TELEMEDICINE PILOT

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

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



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

SECTION 2.(a) G.S. 143B-707.3(c) reads as rewritten:

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

...

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

Reports submitted on August 1 shall include totals for the previous fiscal year for all the information requested."

SECTION 2.(b) By February 1, 2020, the Department of Public Safety, Health Services Section, shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on alternative methods for reimbursing providers and facilities that provide approved medical services to inmates, including Medicare rates.

SECTION 3.(a) Subpart A of Part 2 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

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

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

(b) The Department of Public Safety, Health Services Section, shall require each social worker performing administrative activities related to Medicaid eligibility for inmates to document the following:

- (1) The criteria used by the social worker when deciding to submit an application for Medicaid and when deciding not to submit an application for Medicaid, including any information the social worker believes disqualifies the inmate for Medicaid benefits.
- (2) An indication in the social worker's data entry of an inmate's Medicaid eligibility as determined by the inmate's county department of social services.
- (3) The number of 24-hour community provider stays prescreened for potential applications, the number of applications submitted, and the number and percentage of applications approved, denied, and withdrawn, which shall be reported to the Health Services Section Director on a monthly basis.

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

SECTION 3.(b) By October 1, 2019, and quarterly thereafter until full implementation is achieved, the Department of Public Safety and the Department of Health and Human Services shall jointly report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Joint Legislative Oversight Committee on Medicaid and North Carolina Health Choice on progress in receiving federal reimbursement for performing administrative activities related to Medicaid eligibility for inmates.

SECTION 3.(c) By October 1, 2019, the Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation of the documentation of criteria for the submission of Medicaid applications and the electronic submission of Medicaid applications.

SECTION 3.(d) This section becomes effective October 1, 2019.

SECTION 4. The Department of Public Safety, Health Services Section, shall issue two requests for proposals (RFP) to develop an electronic supply inventory management system. One RFP shall be for a system to be used at all prison facilities and one RFP shall be for a system to be used exclusively at the Central Prison Healthcare Complex and the North Carolina Correctional Institution for Women. The RFPs shall be for an electronic supply inventory management system that is capable of all of the following:

- (1) Recording the arrival and departure of each medical supply in use or for future use from the point of order, including all methods of requisition and main storage locations (e.g., warehouse, secondary storage location, prison unit, or infirmary).
- (2) Recording the dates on which a medical supply was physically at each transition point, including the date of use or disposal.
- (3) Identifying Department employees who have custody of or control over a medical supply at each transition point, including at the time of use or disposal.
- (4) Ensuring that medical supplies are used prior to their expiration date.
- (5) Ensuring an adequate supply of each medical product currently being used or obtained for future use at each facility. Adequate supply level shall be based on usage of each medical product by each facility.
- (6) Biannually assessing the need for particular medical supplies and the accuracy of records through an audit of the system.

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

SECTION 5.(a) The Department of Public Safety, Health Services Section, and the Office of State Human Resources shall jointly study the salaries of all in-prison health services employees to determine what adjustments are necessary to increase the salaries of new hires and existing employees of the Health Services Section to market rates.

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

- (1) Increasing salaries to market rates.
- (2) Creating a student loan forgiveness program for the Health Services Section.
- (3) Offering signing bonuses and annual cash incentives.
- (4) Increasing the use of telemedicine positions.
- (5) Creating dual appointment opportunities for doctors currently employed by the State.
- (6) Offering differential pay for health services workers employed in difficult-to-staff facilities.

- (7) Streamlining and potentially eliminating duplicative or unnecessary steps in the hiring process.

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

SECTION 6.(a) By August 1, 2019, the Department of Public Safety, Health Services Section, shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on the feasibility study of telehealth services referenced in the February 2019 Memorandum of Agreement between the Department and UNC Health Care.

SECTION 6.(b) The Department of Public Safety, Health Services Section, shall establish a telemedicine pilot program to provide physical health services to inmates in remote correctional facilities. The pilot program shall be established with consideration of the results of the study referenced in subsection (a) of this section. The goal of the pilot program is to assess whether the use of telemedicine decreases costs for inmate transportation, custody, and outside providers while improving access to care. While designing the telemedicine pilot program, the Department of Public Safety, Health Services Section, shall consult UNC Health Care; the 2012 University of North Carolina, Kenan-Flagler Business School report on telemedicine; and Finding 6, Report Number 2018-08, from the Joint Legislative Program Evaluation Oversight Committee. The telemedicine pilot program shall initially be established in two correctional facilities serving male inmates. One pilot site shall be located in a correctional facility in the eastern portion of the State and one pilot site shall be located in a correctional facility in the western portion of the State. The pilot program design must connect the two correctional facility pilot sites with the Central Prison Healthcare Complex and its contracted providers' facilities and shall be operational on or before January 1, 2020.

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

- (1) Number and cost of telemedicine encounters by service area.
- (2) Comparison of the number and cost of telemedicine encounters, by service area, to:
 - a. The number of in-person encounters provided the previous year to inmates housed at that facility; and
 - b. The number of in-person encounters provided during the pilot period at similar correctional facilities not participating in the pilot.
- (3) Comparison of the number of days lapsed between referral date and treatment date, by service area, to:
 - a. The number of days lapsed the previous year in that facility; and
 - b. The number of days lapsed during the pilot period at similar correctional facilities not participating in the pilot.
- (4) Amount of inmate transportation and custody costs avoided from receiving telemedicine.
- (5) Amount of provider transportation costs avoided from providing telemedicine.

- (6) Cost of initial telemedicine equipment and other related costs with descriptions.
- (7) Obstacles and concerns related to expanding telemedicine to other correctional facilities.

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

PART II. FEDERAL 340B PROGRAM

SECTION 7.(a) The Department of Public Safety (DPS) shall establish and implement a partnership with the Department of Health and Human Services (DHHS) in order for DPS to be eligible to operate as a 340B covered entity. The Department of Public Safety shall contract for consultant services in order to implement this section. In order to implement the requirements of this section, DPS shall do all of the following:

- (1) Submit an application during the next registration period to enroll in the federal 340B Program found in section 340B of the Public Health Service Act (the "340B Program") to be able to access 340B Program pricing for medications used to treat the human immune deficiency virus (HIV), the hepatitis C virus (HCV), and eligible sexually transmitted diseases (STD).
- (2) Provide DHHS all data and necessary documentation as frequently as such information is needed by DHHS for the implementation of this section.
- (3) Ensure that the DPS Apex Central Pharmacy, and any other DPS pharmacies necessary, are compliant dispensing pharmacies under the 340B Program.
- (4) Coordinate with one or more vendors to purchase STD 340B Program medications that result in the greatest overall cost savings available to the State, whether such savings are achieved by 340B Program pricing, non-340B Program volume discounts, or a combination of both.
- (5) Develop a separate inventory to track 340B Program medications.

SECTION 7.(b) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division by October 1, 2019, regarding the implementation of this section.

SECTION 8.(a) The Department of Public Safety shall develop a plan by December 1, 2019, to issue Requests for Proposals (RFP) as required by this section. The plan to issue RFPs shall, at a minimum, address the following:

- (1) The hiring of a consultant to manage the RFP process from issuance to conclusion.
- (2) The hiring of the same consultant hired for the RFP process to work with the selected 340B Program entities and DPS to implement the requirements of this section.
- (3) The estimated costs for DPS to hire the consultant, issue the RFPs, evaluate RFP proposals, and implement the 340B Program correctional partnerships.

SECTION 8.(b) Regarding the RFPs in subsection (a) of this section, the Department of Public Safety shall issue one RFP for each of the four prison regions. The RFPs shall seek partnerships between the prison regions and one or more 340B Program entities in the State in order to provide specialty treatment for high-cost medical conditions, and shall express a preference for bidding entities that would use DPS as a contract pharmacy for 340B Program medications. Entities interested in providing telemedicine services may bid on more than one prison region. Each RFP shall, at a minimum, require that an entity's bid include the following:

- (1) An explanation of the bidding entity's ability to purchase the following:
 - a. Medications that treat chronic obstructive pulmonary disease (COPD), asthma, rheumatology, multiple sclerosis, mental health conditions, epilepsy, and cardiovascular disease or hypertension.
 - b. Factor products for inmates with hemophilia.
 - c. Oral suppressive therapy medications for inmates with cancer.
 - d. Biologics for inmates with inflammatory diseases such as Crohn's disease, irritable bowel syndrome, and rheumatoid arthritis.
 - e. Brand name inhalers for inmates with COPD and asthma.
 - f. Psychotropic drugs for inmates with schizophrenia, bipolar disorder, and other mental health conditions.
- (2) A commitment, as a 340B Program covered entity, to purchase medications under the 340B Program on behalf of DPS and to pass all related savings on to the State.
- (3) A description of the 340B Program correctional partnership model the bidding entity would use based on the seven correctional partnership models provided in Appendix C of the North Carolina General Assembly Report on Recommendations for a 340B Correctional Partnership on North Carolina issued on May 20, 2019. This description should also include, to the extent possible, potential savings and costs that would be realized under the chosen model.
- (4) An explanation of the manner in which specialty care and 340B pharmacy services will be provided. Services shall be provided in a manner that improves or maintains quality and continuity of patient care.

SECTION 8.(c) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division by December 1, 2019, on the plan described in subsection (a) of this section, and quarterly thereafter until RFPs for all prison regions are awarded, regarding the implementation of this section.

SECTION 9.(a) The Department of Public Safety shall partner with the University of North Carolina Health Care System (UNC-HCS) by October 1, 2019, to begin receiving all 340B Program savings realized from medications prescribed to inmates, but not administered, at a 340B Program-registered UNC-HCS site for non-HIV and non-HCV medications pursuant to subsections (b) and (c) of this section.

SECTION 9.(b) Pursuant to subsection (c) of this section, DPS shall direct that the prescribing authority of DPS providers be transferred to UNC-HCS providers for identified inmates treated at a 340B Program-registered UNC-HCS site.

SECTION 9.(c) By October 1, 2019, DPS and UNC-HCS shall:

- (1) Identify the UNC-HCS inmate patients for whom shifting prescriptive authority to UNC-HCS is feasible and appropriate.
- (2) Establish a method for improving or maintaining quality and continuity of patient care once the prescriptive authority has shifted to UNC-HCS.
- (3) Develop mechanisms to ensure that the communication between the UNC-HCS prescriber and the DPS physician maintains the quality and continuity of care that inmates currently receive.

- (4) Select the UNC-HCS pharmacy, the DPS Apex Central Pharmacy, or a combination of both, as the pharmacy through which medications will be dispensed pursuant to this section.

SECTION 9.(d) The Department of Public Safety and UNC-HCS shall establish a Memorandum of Agreement to require UNC-HCS to pass through all of the 340B Program savings for medications referenced in this section.

SECTION 9.(e) The Department of Public Safety and UNC-HCS shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division by October 1, 2019, and monthly thereafter until implementation, regarding the progress made toward implementing the requirements of this section.

SECTION 10. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-707.5. Reports related to the federal 340B Program.

(a) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division by October 1, 2020, and annually thereafter, regarding:

- (1) Savings achieved from its partnership with the Department of Health and Human Services for the purchasing of certain medications for inmates under the federal 340B Program.
- (2) Savings achieved from its partnership with the University of North Carolina Health Care System for the provision of inmate medications and services under the federal 340B Program.

(b) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division by October 1, 2021, and annually thereafter, on savings achieved from the partnerships between the four prison regions and North Carolina 340B Program entities for the provision of inmate medications and services under the federal 340B Program."

SECTION 11. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2019.

s/ Ralph E. Hise
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 1:39 p.m. this 19th day of July, 2019