

Calendar No. 97

106TH CONGRESS
1ST SESSION**S. 704**

To amend title 18, United States Code, to combat the overutilization of prison health care services and control rising prisoner health care costs.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 1999

Mr. KYL (for himself, Mr. JOHNSON, Mr. HATCH, Mr. THURMOND, Mr. INOUE, Mr. GRASSLEY, Mr. DORGAN, Mr. SESSIONS, Mr. CLELAND, Mr. ASHCROFT, Mrs. LINCOLN, Mr. ABRAHAM, Mr. HELMS, Mr. DASCHLE, Mr. FITZGERALD, and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

APRIL 29, 1999

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 18, United States Code, to combat the overutilization of prison health care services and control rising prisoner health care costs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Prisoner
5 Health Care Copayment Act of 1999”.

1 **SEC. 2. HEALTH CARE FEES FOR PRISONERS IN FEDERAL**
 2 **INSTITUTIONS.**

3 (a) ~~IN GENERAL.~~—Chapter 303 of title 18, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 4048. Fees for health care services for prisoners**

7 **“(a) DEFINITIONS.—**In this section—

8 **“(1)** the term ‘account’ means the trust fund
 9 account (or institutional equivalent) of a prisoner;

10 **“(2)** the term ‘Director’ means the Director of
 11 the Bureau of Prisons;

12 **“(3)** the term ‘health care provider’ means any
 13 person who is—

14 **“(A)** authorized by the Director to provide
 15 health care services; and

16 **“(B)** operating within the scope of such
 17 authorization;

18 **“(4)** the term ‘health care visit’ means a visit,
 19 as determined by the Director, by a prisoner to an
 20 institutional or noninstitutional health care provider;
 21 and

22 **“(5)** the term ‘prisoner’ means—

23 **“(A)** any individual who is incarcerated in
 24 an institution under the jurisdiction of the Bu-
 25 reau of Prisons; or

1 “(B) any other individual, as designated by
 2 the Director, who has been charged with or con-
 3 victed of an offense against the United States.

4 “(b) FEES FOR HEALTH CARE SERVICES.—

5 “(1) IN GENERAL.—The Director, in accord-
 6 ance with this section and with such regulations as
 7 the Director shall promulgate to carry out this sec-
 8 tion, may assess and collect a fee for health care
 9 services provided in connection with each health care
 10 visit requested by a prisoner.

11 “(2) EXCLUSION.—The Director may not as-
 12 sess or collect a fee under this section for preventa-
 13 tive health care services, as determined by the Direc-
 14 tor.

15 “(c) PERSONS SUBJECT TO FEE.—Each fee assessed
 16 under this section shall be collected by the Director from
 17 the account of—

18 “(1) the prisoner receiving health care services
 19 in connection with a health care visit described in
 20 subsection (b)(1); or

21 “(2) in the case of health care services provided
 22 in connection with a health care visit described in
 23 subsection (b)(1) that results from an injury in-
 24 flicted on a prisoner by another prisoner, the pris-

1 oner who inflicted the injury, as determined by the
2 Director.

3 ~~“(d) AMOUNT OF FEE.—Any fee assessed and col-~~
4 ~~lected under this section shall be in an amount of not less~~
5 ~~than \$2.~~

6 ~~“(e) NO CONSENT REQUIRED.—Notwithstanding any~~
7 ~~other provision of law, the consent of a prisoner shall not~~
8 ~~be required for the collection of a fee from the account~~
9 ~~of the prisoner under this section.~~

10 ~~“(f) NO REFUSAL OF TREATMENT FOR FINANCIAL~~
11 ~~REASONS.—Nothing in this section may be construed to~~
12 ~~permit any refusal of treatment to a prisoner on the basis~~
13 ~~that—~~

14 ~~“(1) the account of the prisoner is insolvent; or~~

15 ~~“(2) the prisoner is otherwise unable to pay a~~
16 ~~fee assessed under this section.~~

17 ~~“(g) USE OF AMOUNTS.—~~

18 ~~“(1) RESTITUTION TO SPECIFIC VICTIMS.—~~
19 ~~Amounts collected by the Director under this section~~
20 ~~from a prisoner subject to an order of restitution~~
21 ~~issued pursuant to section 3663 or 3663A shall be~~
22 ~~paid to victims in accordance with the order of res-~~
23 ~~titution.~~

24 ~~“(2) ALLOCATION OF OTHER AMOUNTS.—Of~~
25 ~~amounts collected by the Director under this section~~

1 from prisoners not subject to an order of restitution
 2 issued pursuant to section 3663 or 3663A—

3 “(A) 75 percent shall be deposited in the
 4 Crime Victims Fund established under section
 5 1402 of the Victims of Crime Act of 1984 (42
 6 U.S.C. 10601); and

7 “(B) 25 percent shall be available to the
 8 Attorney General for administrative expenses
 9 incurred in carrying out this section.

10 “(h) REPORTS TO CONGRESS.—Not later than 2
 11 years after the date of enactment of the Federal Prisoner
 12 Copayment Act of 1999, and annually thereafter, the Di-
 13 rector shall submit to Congress a report, which shall
 14 include—

15 “(1) a description of the amounts collected
 16 under this section during the preceding 24-month
 17 period; and

18 “(2) an analysis of the effects of the implemen-
 19 tation of this section, if any, on the nature and ex-
 20 tent of health care visits by prisoners.”.

21 (b) CLERICAL AMENDMENT.—The analysis for chap-
 22 ter 303 of title 18, United States Code, is amended by
 23 adding at the end the following:

“4048. Fees for health care services for prisoners.”.

1 **SEC. 3. HEALTH CARE FEES FOR FEDERAL PRISONERS IN**
 2 **NON-FEDERAL INSTITUTIONS.**

3 Section 4013 of title 18, United States Code, is
 4 amended by adding at the end the following:

5 “(c) ~~HEALTH CARE FEES FOR FEDERAL PRISONERS~~
 6 ~~IN NON-FEDERAL INSTITUTIONS.~~—Notwithstanding
 7 amounts paid under subsection (a)(3), a State or local
 8 government may assess and collect a reasonable fee from
 9 the trust fund account (or institutional equivalent) of a
 10 Federal prisoner for health care services, if—

11 “(1) the prisoner—

12 “(A) is confined in a non-Federal institu-
 13 tion pursuant to an agreement between the
 14 Federal Government and the State or local gov-
 15 ernment; and

16 “(B) is not indigent;

17 “(2) the fee—

18 “(A) is authorized under State law; and

19 “(B) does not exceed the amount collected
 20 from State or local prisoners for the same serv-
 21 ices; and

22 “(3) the services—

23 “(A) are provided within or outside of the
 24 institution by a person who is licensed or cer-
 25 tified under State law to provide health care

1 services and who is operating within the scope
2 of such license;

3 “(B) are provided at the request of the
4 prisoner; and

5 “(C) are not preventative health care serv-
6 ices.”

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Federal Prisoner Health*
9 *Care Copayment Act of 1999”.*

10 **SEC. 2. HEALTH CARE FEES FOR PRISONERS IN FEDERAL**
11 **INSTITUTIONS.**

12 (a) *IN GENERAL.*—Chapter 303 of title 18, United
13 States Code, is amended by adding at the end the following:

14 **“§ 4048. Fees for health care services for prisoners**

15 **“(a) DEFINITIONS.**—*In this section—*

16 *“(1) the term ‘account’ means the trust fund ac-*
17 *count (or institutional equivalent) of a prisoner;*

18 *“(2) the term ‘Director’ means the Director of the*
19 *Bureau of Prisons;*

20 *“(3) the term ‘health care provider’ means any*
21 *person who is—*

22 *“(A) authorized by the Director to provide*
23 *health care services; and*

24 *“(B) operating within the scope of such au-*
25 *thorization;*

1 “(4) the term ‘health care visit’ means a visit, as
 2 determined by the Director, by a prisoner to an insti-
 3 tutional or noninstitutional health care provider; and

4 “(5) the term ‘prisoner’ means—

5 “(A) any individual who is incarcerated in
 6 an institution under the jurisdiction of the Bu-
 7 reau of Prisons; or

8 “(B) any other individual, as designated by
 9 the Director, who has been charged with or con-
 10 victed of an offense against the United States.

11 “(b) *FEEES FOR HEALTH CARE SERVICES.*—

12 “(1) *IN GENERAL.*—The Director, in accordance
 13 with this section and with such regulations as the Di-
 14 rector shall promulgate to carry out this section, may
 15 assess and collect a fee for health care services pro-
 16 vided in connection with each health care visit re-
 17 quested by a prisoner.

18 “(2) *EXCLUSION.*—The Director may not assess
 19 or collect a fee under this section for preventative
 20 health care services, as determined by the Director.

21 “(c) *PERSONS SUBJECT TO FEE.*—Each fee assessed
 22 under this section shall be collected by the Director from
 23 the account of—

1 “(1) the prisoner receiving health care services in
2 connection with a health care visit described in sub-
3 section (b)(1); or

4 “(2) in the case of health care services provided
5 in connection with a health care visit described in
6 subsection (b)(1) that results from an injury inflicted
7 on a prisoner by another prisoner, the prisoner who
8 inflicted the injury, as determined by the Director.

9 “(d) *AMOUNT OF FEE.*—Any fee assessed and collected
10 under this section shall be in an amount of not less than
11 \$2.

12 “(e) *NO CONSENT REQUIRED.*—Notwithstanding any
13 other provision of law, the consent of a prisoner shall not
14 be required for the collection of a fee from the account of
15 the prisoner under this section.

16 “(f) *NO REFUSAL OF TREATMENT FOR FINANCIAL*
17 *REASONS.*—Nothing in this section may be construed to
18 permit any refusal of treatment to a prisoner on the basis
19 that—

20 “(1) the account of the prisoner is insolvent; or

21 “(2) the prisoner is otherwise unable to pay a fee
22 assessed under this section.

23 “(g) *USE OF AMOUNTS.*—

24 “(1) *RESTITUTION TO SPECIFIC VICTIMS.*—
25 Amounts collected by the Director under this section

1 *from a prisoner subject to an order of restitution*
 2 *issued pursuant to section 3663 or 3663A shall be*
 3 *paid to victims in accordance with the order of res-*
 4 *titution.*

5 “(2) *ALLOCATION OF OTHER AMOUNTS.—Of*
 6 *amounts collected by the Director under this section*
 7 *from prisoners not subject to an order of restitution*
 8 *issued pursuant to section 3663 or 3663A—*

9 “(A) *75 percent shall be deposited in the*
 10 *Crime Victims Fund established under section*
 11 *1402 of the Victims of Crime Act of 1984 (42*
 12 *U.S.C. 10601); and*

13 “(B) *25 percent shall be available to the At-*
 14 *torney General for administrative expenses in-*
 15 *curring in carrying out this section.*

16 “(h) *REPORTS TO CONGRESS.—Not later than 2 years*
 17 *after the date of enactment of the Federal Prisoner Copay-*
 18 *ment Act of 1999, and annually thereafter, the Director*
 19 *shall submit to Congress a report, which shall include—*

20 “(1) *a description of the amounts collected under*
 21 *this section during the preceding 24-month period;*
 22 *and*

23 “(2) *an analysis of the effects of the implementa-*
 24 *tion of this section, if any, on the nature and extent*
 25 *of health care visits by prisoners.”.*

1 (b) *CLERICAL AMENDMENT.*—*The analysis for chapter*
 2 *303 of title 18, United States Code, is amended by adding*
 3 *at the end the following:*

“4048. Fees for health care services for prisoners.”.

4 **SEC. 3. HEALTH CARE FEES FOR FEDERAL PRISONERS IN**
 5 **NON-FEDERAL INSTITUTIONS.**

6 *Section 4013 of title 18, United States Code, is amend-*
 7 *ed by adding at the end the following:*

8 “(c) *HEALTH CARE FEES FOR FEDERAL PRISONERS*
 9 *IN NON-FEDERAL INSTITUTIONS.*—

10 “(1) *IN GENERAL.*—*Notwithstanding amounts*
 11 *paid under subsection (a)(3), a State or local govern-*
 12 *ment may assess and collect a reasonable fee from the*
 13 *trust fund account (or institutional equivalent) of a*
 14 *Federal prisoner for health care services, if—*

15 “(A) *the prisoner is confined in a non-Fed-*
 16 *eral institution pursuant to an agreement be-*
 17 *tween the Federal Government and the State or*
 18 *local government;*

19 “(B) *the fee—*

20 “(i) *is authorized under State law; and*

21 “(ii) *does not exceed the amount col-*
 22 *lected from State or local prisoners for the*
 23 *same services; and*

24 “(C) *the services—*

1 “(i) are provided within or outside of
 2 the institution by a person who is licensed
 3 or certified under State law to provide
 4 health care services and who is operating
 5 within the scope of such license;

6 “(ii) are provided at the request of the
 7 prisoner; and

8 “(iii) are not preventative health care
 9 services.

10 “(2) NO REFUSAL OF TREATMENT FOR FINAN-
 11 CIAL REASONS.—Nothing in this subsection may be
 12 construed to permit any refusal of treatment to a
 13 prisoner on the basis that—

14 “(A) the account of the prisoner is insol-
 15 vent; or

16 “(B) the prisoner is otherwise unable to pay
 17 a fee assessed under this subsection.”.

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