

Union Calendar No. 506

106TH CONGRESS
2^D SESSION

H. R. 1349

[Report No. 106-851]

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 HOUSE OF REPRESENTATIVES

MARCH 25, 1999

Mr. SALMON (for himself, Mr. SHOWS, Mr. SMITH of New Jersey, Mr. MARTINEZ, Mr. COBURN, Mr. TAYLOR of Mississippi, Mr. SCHAFFER, Mr. HAYWORTH, Mr. NETHERCUTT, Mr. ENGLISH, Mr. GILMAN, Mr. COOK, Mr. BARTON of Texas, Mr. FOLEY, and Mr. CASTLE) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 14, 2000

Additional sponsors: Mr. SMITH of Washington, Mr. GARY MILLER of California, Mr. WHITFIELD, Mr. EVANS, Mr. CHABOT, Mr. BARRETT of Nebraska, Mr. BILBRAY, Mr. GOODE, Mr. CUNNINGHAM, Mr. NEY, Mr. FORBES, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. KOLBE, Mr. STUMP, Mr. GREEN of Wisconsin, Mr. CONDIT, Mr. WELDON of Florida, Mr. CALVERT, Mr. CANNON, Mr. LATHAM, Mr. MILLER of Florida, Mr. GIBBONS, Mr. SENSENBRENNER, Mr. RILEY, Mr. JONES of North Carolina, Mr. GRAHAM, Mr. DEMINT, Mr. GOODLATTE, Mr. BARR of Georgia, Mr. LAZIO, Mr. McKEON, Mr. ROHRABACHER, Mr. GEKAS, Mr. HERGER, Mr. BARCIA, Mr. SOUDER, Mrs. FOWLER, Mr. DEFazio, Mr. PACKARD, Mr. BARTLETT of Maryland, Mr. SAM JOHNSON of Texas, and Mrs. MYRICK

SEPTEMBER 14, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on March 25, 1999]

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 Health*
 5 *Care Copayment Act of 2000”.*

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

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

10 **“§ 4048. Fees for health care services for prisoners**

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

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

14 *“(2) the term ‘Director’ means the Director of the*
 15 *Bureau of Prisons;*

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

1 “(A) authorized by the Director to provide
2 health care services; and

3 “(B) operating within the scope of such au-
4 thorization;

5 “(4) the term ‘health care visit’—

6 “(A) means a visit, as determined by the
7 Director, by a prisoner to an institutional or
8 noninstitutional health care provider; and

9 “(B) does not include a visit initiated by a
10 prisoner—

11 “(i) pursuant to a staff referral; or

12 “(ii) to obtain staff-approved follow-up
13 treatment for a chronic condition; and

14 “(5) the term ‘prisoner’ means—

15 “(A) any individual who is incarcerated in
16 an institution under the jurisdiction of the Bu-
17 reau of Prisons; or

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

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

22 “(1) IN GENERAL.—The Director, in accordance
23 with this section and with such regulations as the Di-
24 rector shall promulgate to carry out this section, may
25 assess and collect a fee for health care services pro-

1 *vided in connection with each health care visit re-*
2 *quested by a prisoner.*

3 *“(2) EXCLUSION.—The Director may not assess*
4 *or collect a fee under this section for preventative*
5 *health care services, emergency services, prenatal care,*
6 *diagnosis or treatment of chronic infectious diseases,*
7 *mental health care, or substance abuse treatment, as*
8 *determined by the Director.*

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

12 *“(1) the prisoner receiving health care services in*
13 *connection with a health care visit described in sub-*
14 *section (b)(1); or*

15 *“(2) in the case of health care services provided*
16 *in connection with a health care visit described in*
17 *subsection (b)(1) that results from an injury inflicted*
18 *on a prisoner by another prisoner, the prisoner who*
19 *inflicted the injury, as determined by the Director.*

20 *“(d) AMOUNT OF FEE.—Any fee assessed and collected*
21 *under this section shall be in an amount of not less than*
22 *\$1.*

23 *“(e) NO CONSENT REQUIRED.—Notwithstanding any*
24 *other provision of law, the consent of a prisoner shall not*
25 *be required for the collection of a fee from the account of*

1 *the prisoner under this section. However, each such prisoner*
2 *shall be given a reasonable opportunity to dispute the*
3 *amount of the fee or whether the prisoner qualifies under*
4 *an exclusion under this section.*

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

9 “(1) *the account of the prisoner is insolvent; or*
10 “(2) *the prisoner is otherwise unable to pay a fee*
11 *assessed under this section.*

12 “(g) *USE OF AMOUNTS.—*

13 “(1) *RESTITUTION OF SPECIFIC VICTIMS.—*
14 *Amounts collected by the Director under this section*
15 *from a prisoner subject to an order of restitution*
16 *issued pursuant to section 3663 or 3663A shall be*
17 *paid to victims in accordance with the order of res-*
18 *titution.*

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

23 “(A) *75 percent shall be deposited in the*
24 *Crime Victims Fund established under section*

1 1402 of the Victims of Crime Act of 1984 (42
2 U.S.C. 10601); and

3 “(B) 25 percent shall be available to the At-
4 torney General for administrative expenses in-
5 curred in carrying out this section.

6 “(h) NOTICE TO PRISONERS OF LAW.—Each person
7 who is or becomes a prisoner shall be provided with written
8 and oral notices of the provisions of this section and the
9 applicability of this section to the prisoner. Notwith-
10 standing any other provision of this section, a fee under
11 this section may not be assessed against, or collected from,
12 such person—

13 “(1) until the expiration of the 30-day period be-
14 ginning on the date on which each prisoner in the
15 prison system is provided with such notices; and

16 “(2) for services provided before the expiration of
17 such period.

18 “(i) NOTICE TO PRISONERS OF REGULATIONS.—The
19 regulations promulgated by the Director under subsection
20 (b)(1), and any amendments to those regulations, shall not
21 take effect until the expiration of the 30-day period begin-
22 ning on the date on which each prisoner in the prison sys-
23 tem is provided with written and oral notices of the provi-
24 sions of those regulations (or amendments, as the case may
25 be). A fee under this section may not be assessed against,

1 *or collected from, a prisoner pursuant to such regulations*
2 *(or amendments, as the case may be) for services provided*
3 *before the expiration of such period.*

4 “(j) *NOTICE BEFORE PUBLIC COMMENT PERIOD.*—Be-
5 *fore the beginning of any period a proposed regulation*
6 *under this section is open to public comment, the Director*
7 *shall provide written and oral notice of the provisions of*
8 *that proposed regulation to groups that advocate on behalf*
9 *of Federal prisoners and to each prisoner subject to such*
10 *proposed regulation.*

11 “(k) *REPORTS TO CONGRESS.*—*Not later than 1 year*
12 *after the date of the enactment of the Federal Prisoner*
13 *Health Care Copayment Act of 2000, and annually there-*
14 *after, the Director shall transmit to Congress a report,*
15 *which shall include—*

16 “(1) *a description of the amounts collected under*
17 *this section during the preceding 12-month period;*

18 “(2) *an analysis of the effects of the implementa-*
19 *tion of this section, if any, on the nature and extent*
20 *of health care visits by prisoners;*

21 “(3) *an itemization of the cost of implementing*
22 *and administering the program;*

23 “(4) *a description of current inmate health sta-*
24 *tus indicators as compared to the year prior to enact-*
25 *ment; and*

1 “(5) a description of the quality of health care
2 services provided to inmates during the preceding 12-
3 month period, as compared with the quality of those
4 services provided during the 12-month period ending
5 on the date of the enactment of such Act.”.

6 (b) *CLERICAL AMENDMENT.*—The analysis for chapter
7 303 of title 18, United States Code, is amended by adding
8 at the end the following:

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

9 **SEC. 3. HEALTH CARE FEES FOR FEDERAL PRISONERS IN**
10 **NON-FEDERAL INSTITUTIONS.**

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

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

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

20 “(A) the prisoner is confined in a non-Fed-
21 eral institution pursuant to an agreement be-
22 tween the Federal Government and the State or
23 local government;

24 “(B) the fee—

25 “(i) is authorized under State law; and

1 “(ii) does not exceed the amount col-
2 lected from State or local prisoners for the
3 same services; and

4 “(C) the services—

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

10 “(ii) constitute a health care visit
11 within the meaning of section 4048(a)(4) of
12 this title; and

13 “(iii) are not preventative health care
14 services, emergency services, prenatal care,
15 diagnosis or treatment of chronic infectious
16 diseases, mental health care, or substance
17 abuse treatment.

18 “(2) *NO REFUSAL OF TREATMENT FOR FINAN-*
19 *CIAL REASONS.*—Nothing in this subsection may be
20 construed to permit any refusal of treatment to a
21 prisoner on the basis that—

22 “(A) the account of the prisoner is insol-
23 vent; or

24 “(B) the prisoner is otherwise unable to pay
25 a fee assessed under this subsection.

1 “(3) *NOTICE TO PRISONERS OF LAW.*—*Each per-*
2 *son who is or becomes a prisoner shall be provided*
3 *with written and oral notices of the provisions of this*
4 *subsection and the applicability of this subsection to*
5 *the prisoner. Notwithstanding any other provision of*
6 *this subsection, a fee under this section may not be*
7 *assessed against, or collected from, such person—*

8 “(A) *until the expiration of the 30-day pe-*
9 *riod beginning on the date on which each pris-*
10 *oner in the prison system is provided with such*
11 *notices; and*

12 “(B) *for services provided before the expira-*
13 *tion of such period.*

14 “(4) *NOTICE TO PRISONERS OF STATE OR LOCAL*
15 *IMPLEMENTATION.*—*The implementation of this sub-*
16 *section by the State or local government, and any*
17 *amendment to that implementation, shall not take ef-*
18 *fect until the expiration of the 30-day period begin-*
19 *ning on the date on which each prisoner in the prison*
20 *system is provided with written and oral notices of*
21 *the provisions of that implementation (or amendment,*
22 *as the case may be). A fee under this subsection may*
23 *not be assessed against, or collected from, a prisoner*
24 *pursuant to such implementation (or amendments, as*

1 *the case may be) for services provided before the expi-*
2 *ration of such period.*

3 “(5) NOTICE BEFORE PUBLIC COMMENT PE-

4 *RIOD.—Before the beginning of any period a proposed*
5 *implementation under this subsection is open to pub-*
6 *lic comment, written and oral notice of the provisions*
7 *of that proposed implementation shall be provided to*
8 *groups that advocate on behalf of Federal prisoners*
9 *and to each prisoner subject to such proposed imple-*
10 *mentation.”.*

11 **SEC. 4. COMPREHENSIVE HIV/AIDS SERVICES REQUIRED TO**
12 **BE INCLUDED IN HEALTH CARE SERVICES**
13 **FOR WHICH HEALTH CARE FEES MAY BE AS-**
14 **SESSED.**

15 *Any health care services for which a person may be*
16 *assessed a fee under section 4048 of title 18, United States*
17 *Code (as added by section 2) or section 4013(c) of such title*
18 *(as added by section 3) shall include comprehensive cov-*
19 *erage for services relating to human immunodeficiency*
20 *virus (HIV) and acquired immune deficiency syndrome*
21 *(AIDS).*

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