

441.045 Rules for jails -- Inspection by county judge/executive -- Medical, dental, and psychological care for prisoners -- Funds not to lapse -- Fee for use of jail medical facilities by state prisoner -- Payments to counties not to exceed Medicaid rate -- Transportation of prisoners for health care -- Responsibility for health care expenses.

- (1) The county governing body shall prescribe rules for the government, security, safety, and cleanliness of the jail and the comfort and treatment of prisoners, provided such rules are consistent with state law. The county judge/executive may inspect the jail at any reasonable time.
- (2) Willful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.
- (3) Except as provided in subsections (4) and (5) of this section, the cost of providing necessary medical, dental, and psychological care for indigent prisoners in the jail shall be paid from the jail budget.
- (4) The cost of providing necessary medical, dental, or psychological care for prisoners of the United States government shall be paid as provided by contract between the United States government and the county or as may otherwise be provided by federal law.
- (5) The cost of providing necessary medical, dental, or psychological care, beyond routine care and diagnostic services, for prisoners held pursuant to a contractual agreement with the state shall be paid as provided by contract between the state and county. The costs of necessary medical, dental, or psychological care, beyond routine care and diagnostic services, of prisoners held in the jail for which the county receives a per diem payment shall be paid by the state.
- (6) The cost of providing necessary medical, dental, or psychological care for prisoners held pursuant to a contractual agreement with another county or a city shall be paid as provided by contract between the county or city and county.
- (7) (a) When the cost of necessary medical, dental, or psychological care for a prisoner exceeds one thousand dollars (\$1,000), as calculated by using the maximum allowable costs to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, the state shall reimburse the county for that portion of the costs that exceeds one thousand dollars (\$1,000). The reimbursement shall be subject to the following terms and conditions:
 1. The care is necessary as defined in subsection (10) of this section;
 2. The prisoner is indigent as defined in subsection (8) of this section, or is uninsured; and
 3. No state reimbursement to the county for care provided by physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, except as provided in subsection (11) of this section.
- (b) A county may assign its ability to receive payment from the state under this

subsection to the person providing the medical, dental, or psychological care to the prisoner, which assignment shall be accepted by the provider for the purposes of submitting billing directly to the state. The state shall pay or deny a claim submitted to it within ninety (90) days of receiving the claim. The county shall include with the assignment the information required by subsection (8) of this section necessary to qualify the prisoner as indigent. The provider shall bill for any other public or private health benefit plan or health insurance benefits available to the prisoner prior to billing the state under this subsection, and shall bill the state prior to billing the county. The county shall retain ultimate payment responsibility as established under subsection (3) of this section, and the provider may bill the county for payment after the expiration of ninety (90) days from the date the provider submitted the claim to the state for payment if the claim remains unpaid at that time.

- (8) (a) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120, and may be evidenced by the affidavit of indigency required by that statute or the appointment of a public defender under that statute. The prisoner shall not be considered indigent, in the case of prisoner medical care, if:
1. The prisoner has funds on his inmate account to cover all or a portion of his medical expenses;
 2. The prisoner's medical expenses are covered on a medical insurance policy; or
 3. The prisoner has the private resources to pay for the use of the medical facilities.
- (b) Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, shall be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment.
- (9) The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.
- (10) For the purposes of this section, "necessary care" means care of a nonelective nature that cannot be postponed until after the period of confinement without hazard to the life or health of the prisoner.
- (11) Any money appropriated for a given fiscal year to fund the state's obligation under subsection (7) of this section which remains unspent at the end of the year shall not lapse but shall be made available to satisfy, to the maximum extent possible, that portion of each catastrophic claim made during said year above the threshold amount for which the county did not receive state assistance pursuant to subsection (7) of this section. In the event there is an insufficient surplus to satisfy said balance of all such catastrophic claims which are made during that year, the state shall pay to those qualified counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. Should the surplus be sufficient to satisfy all such

catastrophic claims, the amount remaining, if any, shall not lapse but shall be carried forward to the next fiscal year to be made available for future catastrophic claims.

- (12) Notwithstanding other provisions of this section to the contrary, a jail may impose a reasonable fee for the use of jail medical facilities by a prisoner who has the ability to pay for the medical care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical treatment because he has insufficient funds on his inmate account. This subsection shall not preclude other recovery of funds as provided in this section.
- (13)
 - (a) Notwithstanding any other provision of this section to the contrary, a jail may impose a reasonable fee for the use of jail medical facilities by a state prisoner who has been placed in a local jail pursuant to a contract with the Department of Corrections under KRS 532.100 or other statute, and who has the ability to pay for medical care.
 - (b) Funds may be deducted from the state prisoner's inmate account at the jail.
 - (c) A state prisoner shall not be denied medical treatment because he or she has insufficient funds in his or her inmate account.
 - (d) This subsection shall not preclude other recovery of funds as provided in this section.
 - (e) This subsection does not authorize recovery of funds from a prisoner for medical care which has been paid or reimbursed by the state pursuant to this section.
- (14) Except as provided in subsection (4), (5), or (8) of this section, all payments for necessary medical, dental, or psychological care for jail, regional jail, or holdover prisoners shall be made at a rate not to exceed the Medicaid rate for the same or similar services, which shall be paid within thirty (30) days under the provisions of KRS 65.140 of receiving a claim from the health facility or provider for the item or service. This subsection shall not obligate the Medicaid program to pay for services provided to a prisoner.
- (15)
 - (a) A peace officer or correctional officer having custody of a person shall not release the person from custody so that the person may receive treatment from a health care facility or health care provider, except pursuant to an order issued by a court of competent jurisdiction which specifically names the person to receive treatment.
 - (b) A peace officer or correctional officer having custody of a person may take the person to a health care facility or health care provider for the purpose of receiving treatment if a correctional officer remains with the person during the time the person is on the premises of the health care facility or health care provider, unless the facility or provider consents to the absence of the officer.
 - (c) A county, urban-county, consolidated local government, charter county, unified local government, jail, regional jail, holdover, local detention center, or other local correctional facility shall not be responsible for paying for the medical or other health care costs of a person who is released by a court of

competent jurisdiction, except where the release is for the purpose of receiving medical or other health care services as evidenced by an order requiring the person to return to custody upon completion of treatment.

- (d) When a county, urban-county, consolidated local government, charter county, unified local government, jail, regional jail, holdover, local detention center, or other local correctional facility is responsible for paying for medical or other health care costs under paragraph (c) of this subsection, payment shall be made only at the Medicaid rate for same or similar services.
- (e) For the purposes of this subsection, "correctional officer" includes a:
 - 1. Jailer or deputy jailer;
 - 2. Director or other person in charge of a local detention center, local correctional facility, or regional jail; and
 - 3. Correctional officer employed by a local detention center, local correctional facility, or regional jail.

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History: Amended 2011 Ky. Acts ch. 2, sec. 75, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 8, sec. 1, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 61, sec. 1, effective July 15, 1996; and ch. 108, sec. 2, effective July 15, 1996. -- Amended 1986 Ky. Acts ch. 343, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 415, sec. 2, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 385, sec. 38, effective July 1, 1982. -- Amended 1979 (1st Extra. Sess.) Ky. Acts ch. 21, sec. 1, effective May 12, 1979. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 12, sec. 2, effective January 1, 1978; and ch. 14, sec. 457, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2233, 2235.

Formerly codified as KRS 441.010.