

1 811

By: Laster of the Senate

2

and

3

Sullivan of the House

4

5

6

2ND CONFERENCE COMMITTEE SUBSTITUTE

7

An Act relating to county jails; amending 19 O.S. 2001, Section 746, which relates to liability for medical costs for persons in county jail; clarifying liability for preexisting conditions; recognizing duty to provide opportunity for medical care; requiring certain payment of certain expenses from person; directing reimbursement of certain expenses paid by jail under certain circumstance; construing liability for certain expense; amending Section 4, Chapter 319, O.S.L. 2003 (19 O.S. Supp. 2007, Section 746.1) and Section 5, Chapter 319, O.S.L. 2003, as amended by Section 1, Chapter 468, O.S.L. 2005 (20 O.S. Supp. 2007, Section 1313.7), which relate to the Medical Expense Liability Revolving Fund and remission of certain fees; modifying references; changing the method of paying claims; providing quarterly payments based on pro rata share of available funds; construing payment provisions; providing an effective date; and declaring an emergency.

10

11

12

13

14

15

16

17

18

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20

SECTION 1. AMENDATORY 19 O.S. 2001, Section 746, is

21

amended to read as follows:

22

Section 746. A. When a ~~defendant~~ person is in the custody of a

23

county jail, the custodial county shall only be liable for the cost

24

of medical care for conditions that are not preexisting prior to

1 arrest and that arise due to acts or omissions of the county.
2 ~~Preexisting conditions are defined as those illnesses beginning or~~
3 ~~injuries sustained before a person is in the peaceable custody of~~
4 ~~the county's officers~~ A preexisting condition is a condition for
5 which the person received medical treatment or advice, or a
6 condition which was diagnosed in the six (6) months preceding the
7 custody of the person by the law enforcement agency. An accidental
8 injury sustained during the six (6) months preceding the custody of
9 that person by the law enforcement agency will also be considered a
10 preexisting condition.

11 B. An inmate receiving in pretrial detention or the custody of
12 a county jail shall be provided with the opportunity to receive
13 necessary medical care for a preexisting condition or a condition
14 not caused by the acts or omissions of the county and the inmate
15 shall be liable for payment of the cost of such medical care,
16 including, but not limited to, medication, medical treatment, and
17 transportation costs, for or relating to the condition requiring
18 treatment.

19 C. The court shall order medical provider or hospital shall
20 seek payment for all medical care provided for preexisting
21 conditions directly from the offender. In the event there is a
22 dispute between the jail and the medical provider or hospital
23 concerning the existence or extent of a preexisting condition or the
24 liability to pay medical expenses relating to such condition, and

1 the sheriff pays the expense pending a final determination of
2 liability for such medical expense, the court shall order the
3 offender to reimburse the sheriff for all medical care and treatment
4 for preexisting conditions and injuries except for amounts collected
5 pursuant to Section 531 of this title. Nothing in this section
6 shall require a jail to pay disputed medical expenses or expenses
7 for any preexisting condition.

8 SECTION 2. AMENDATORY Section 4, Chapter 319, O.S.L.
9 2003 (19 O.S. Supp. 2007, Section 746.1), is amended to read as
10 follows:

11 Section 746.1 There is hereby created in the State Treasury a
12 revolving fund for the State and Education Employees Group Insurance
13 Board to be designated the "Medical Expense Liability Revolving
14 Fund". The fund shall be a continuing fund, not subject to fiscal
15 year limitations, and shall consist of all monies received from fees
16 assessed pursuant to Section ~~5~~ 1313.7 of ~~this act~~ Title 20 of the
17 Oklahoma Statutes. All monies accruing to the credit of the fund
18 shall be appropriated and may be budgeted and expended by the State
19 and Education Employees Group Insurance Board for qualified medical
20 expenses for inmates or persons in the custody of a county or city
21 jail pursuant to the criteria set forth in Section ~~5~~ 1313.7 of ~~this~~
22 ~~act~~ Title 20 of the Oklahoma Statutes. A portion of the Medical
23 Expense Liability Revolving Fund shall be used for the costs the
24 Board incurred in administering such monies.

1 Expenditures from the fund shall be made upon warrants issued by
2 the State Treasurer against claims filed as prescribed by law with
3 the Director of State Finance for approval and payment.

4 SECTION 3. AMENDATORY Section 5, Chapter 319, O.S.L.
5 2003, as amended by Section 1, Chapter 468, O.S.L. 2005 (20 O.S.
6 Supp. 2007, Section 1313.7), is amended to read as follows:

7 Section 1313.7 A. In addition to the fees imposed by Sections
8 1313.2 and 1313.3 of this title, any person convicted of any
9 offense, excluding municipal ordinances, traffic offenses and
10 parking and standing violations, but including violations of Section
11 11-902 of Title 47 of the Oklahoma Statutes, punishable by a fine of
12 Ten Dollars (\$10.00) or more or by incarceration or any person
13 forfeiting bond when charged with such offense, shall be ordered by
14 the court to pay a medical expense liability fee in the amount of
15 Ten Dollars (\$10.00) for each offense to the Medical Expense
16 Liability Revolving Fund provided for in Section 746.1 of Title 19
17 of the Oklahoma Statutes. The fee shall be in addition to and not
18 in substitution for any and all fines and penalties otherwise
19 provided for by law for such offense.

20 B. The county court clerk shall cause to be deposited the
21 amount of Ten Dollars (\$10.00) as collected, for every conviction as
22 described in this subsection. The county court clerk shall remit
23 the monies in the fund on a monthly basis to the Medical Expense
24 Liability Revolving Fund.

1 The monies from the Medical Expense Liability Revolving Fund
2 shall be used when all of the following criteria are met:

3 1. The county has not filed a claim against the fund in the
4 previous twelve (12) months;

5 2. A county jail in this state is determined to be liable for
6 the medical expense or expenses of a state inmate or person in
7 custody on state charges as provided by law. The minimum expense
8 amount that shall qualify for consideration is Eight Thousand
9 Dollars (\$8,000.00) per ailment or injury;

10 3. The county clerk of the county makes a written claim to the
11 State and Education Employees Group Insurance Board regarding a
12 county medical expense. In addition to the written claim, all of
13 the medical records and bills shall be submitted that relate to the
14 medical expense under consideration; and

15 4. It is determined that the state inmate or person in custody
16 on state charges lacks the ability and resources to cover the
17 medical expense or expenses.

18 C. The Medical Expense Liability Revolving Fund shall not pay
19 any expenses in excess of One Hundred Thousand Dollars (\$100,000.00)
20 per state inmate or person in custody on state charges. The State
21 and Education Employees Group Insurance Board shall pay valid
22 requests for reimbursements ~~in the order in which they are received~~
23 quarterly based upon a pro rata share of available funds being
24 distributed between all valid claims received within the preceding

1 quarter. In the event there are insufficient funds available to pay
2 any outstanding requests, the Board shall pay such requests only
3 after sufficient funds have accumulated. Nothing in this subsection
4 shall be construed to require payment in full of any or all valid
5 claims or the holding of any or all valid claims until sufficient
6 funds have accumulated to pay the claims in full.

7 D. If the state inmate or person in custody on state charges
8 receives any type of compensation or award from a collateral source
9 as a result of the ailment or injury which is paid by the Medical
10 Expense Liability Revolving Fund, the state shall be subrogated to
11 the rights of a claimant to receive or recover from a collateral
12 source to the extent that medical expenses were awarded.

13 SECTION 4. This act shall become effective July 1, 2008.

14 SECTION 5. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18

19 51-2-3709 NP 5/19/2008 9:31:24 AM

20

21

22

23

24