SUBJECT: Requiring health care copayment by prison inmates

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — Hightower, Allen, Alexander, Gray, Hupp, Marchant, Serna

0 nays

2 absent — Edwards, Farrar

WITNESSES: For — James Campbell

Against — Stuart M. De Luca, Texas Inmate Families Association; Linda Marin, Jean Leath, Texas Citizens United for the Rehabilitation of Errants; Jay Jacobsen, ACLU of Texas; Kay Freund, Linda F. Reeves, Mary L. Hysaw, Ella Mae Nichols, Coralynn Young, A.A. Macalusa, Jake Isaac

On — Clint Winters, Office of the Comptroller; Allen D. Sapp

DIGEST: CSHB 214 would require prison inmates to pay $3 as a copayment for health care visits initiated by the inmate. The copayment would be taken out of an inmate's trust fund. If the fund did not have $3, 50 percent of each deposit to the fund would be applied to the copayment until it was paid off. The Texas Department of Criminal Justice (TDCJ) would be prohibited from denying an inmate access to health care because the inmate could not make a payment or failed to do so.

The copayment could not be charged if the health care was:

• in response to a life-threatening or emergency situation;
• initiated by TDCJ;
• initiated by the health care provider;
• routine follow-up, prenatal or chronic care; or
• part of a contractual obligation under the Interstate Corrections Compact or prohibited by an agreement used to house an inmate from another state.

TDCJ would have to adopt policies to ensure that inmates know about the copayment and to allow inmates who are charged a copayment to submit a grievance if they believe the charge fell under one of the above exceptions.

Withdrawals from an inmate's trust funds for health care copayments could be made only from any amount remaining after statutorily required withdrawals had been made for child support, restitution, fines and court costs.

The copayments could be used only to pay for administering the copayment requirement. Any excess funds would have to be transferred annually to the general revenue fund.

CSHB 214 would take effect January 1, 1988.

SUPPORTERS SAY:

CSHB 214 would save taxpayers money by discouraging unnecessary doctor visits by prison inmates while ensuring inmates would not be denied or refused needed medical care.

Prison health care costs have been rising along with the prison inmate population. In fiscal 1996, Texas spent about $255 million on inmate health care for the state's approximately 132,000 inmates. Inmates average 28 visits to doctors or nurses annually, about three times the average number made by state employees. By requiring inmates to make a small copayment for self-initiated, non-emergency health care visits, CSHB 214 would help reduce the number of inmates who abuse the system by requesting health care visits out of boredom or to get out of their cells or their work or school assignments. However, there should continue to be some controls on inmate access to over-the-counter medications which can be abused by inmates or used to hurt other inmates or TDCJ employees.

The fiscal note on CSHB 214 estimates that inmate health care visits would be reduced by 30 percent and that 25 percent of the remaining visits would be subject to the copayment. This would raise for the general revenue fund about $497,000 in fiscal 1999 and about $897,000 annually after that. The fiscal note considers only fees that would be paid and does not take into account cost savings realized because frivolous infirmary visits would be reduced.

Inmate health care copayments are being used in about 30 other states and in some Texas county jails. In Cherokee County, inmate health care costs reportedly dropped 50 percent after a copayment requirement was instituted.

Requiring inmates to make a health care copayment would not be unfair or punitive against the inmates. State employees and other Texans are commonly required to make health care copayments, and inmates should be no different. Inmates are provided with necessities such as soap and underwear. However, they spend millions from their trust accounts on discretionary and unnecessary items such as snacks or additional toiletries. It is only fair that inmates with money — whether sent by their family or someone else — use it for their health care instead of forcing all taxpayers to carry this whole burden.

CSHB 214 has safeguards to ensure inmates are not denied or refused health care or unfairly charged copayments. The bill would exempt from the copayment requirement health care visits for emergency, follow up, prenatal, chronic and department-initiated care. Inmates would have to be informed about the system and given an opportunity to file a grievance if they were charged a copayment when they thought their care fell under one of the exemptions. TDCJ would not be able to deny inmates with no money access to health care. If an inmate did not have enough trust fund money to make a health care copayment, a tab would be kept to be offset by future deposits in the trust fund. However, only 50 percent of each future deposit could be used to pay outstanding copayments.

CSHB 214 also would require that copayments come after other obligations on inmates' trust account. Required child support, restitution, fines and court costs would have to be paid out of inmates' trust funds before deposits would be used for the health care copayment.

OPPONENTS SAY:

CSHB 214 would place an unfair and heavy burden on both inmates and their families and could end up harming inmates' health and costing the state money. The state should be responsible for basic human needs such as health care for those whom it incarcerates.

It is unfair to compare inmates' utilization of health care with that of state employees. Most inmates enter prison with more health problems than the

average state employee, and the stressful, unhealthy, close quarters environment in prisons is more conducive to health care problems than the environment of the average state employee. Prison health care may be only kind available to some inmates who may not have had insurance or access to health care in the free world. In addition, inmates' utilization rates are inflated because they often do not have access to over-the-counter medications and must seek care to obtain such common items as aspirin and antacids.

About 65 percent of inmates have less than $5 in their trust accounts. This money is often used for necessities such as toothpaste, soap, underwear or shaving cream. It would be punitive and unfair to force inmates, especially indigent inmates, to spend what little money they have on health care.

CSHB 214 would unfairly burden inmates' families and loved ones who supply most inmate trust fund money. Inmates are not paid for the work they do in prison, so most depend on these funds from family and friends, many of whom are of modest means themselves. Requiring inmates' families and loved ones in effect to pay for inmates' health care would be like forcing them to pay another tax to the state in addition to those they already pay. Inmates' families — including their children — could suffer if they have to supply an inmate with funds to pay health care copayments.

CSHB 214 could result in inmates putting off seeking necessary medical attention. In fact inmates often avoid seeking medical care due to the hassles they encounter and indifferent medical treatment. Delaying care could result in higher costs when the inmate does receive care, perhaps only after a problem has become an emergency. While CSHB 214 would allow exemptions for some types of care, other care may be necessary even though it is self-initiated. It would be unfair to force inmates to pay for necessary health care even if they are the one to initiate it.

The problem of rising health care costs could be addressed in other ways. Inmates entering the system with chronic, untreated health problems could be treated promptly and aggressively to improve their overall health. Prison environments, often plagued by poor ventilation and infectious diseases,

could be improved. Another cost savings measure would be to give inmates access to over-the-counter medications such as aspirins and antacids which currently require an inmate to visit an infirmary.

OTHER OPPONENTS SAY:

CSHB 214 should define such crucial terms as “life-threatening” or “emergency” to clarify when inmates are exempted from making health care copayments. Symptoms of serious emergencies, for example, a heart attack, can be similar to other non-emergency situations. Without clear definitions of these terms, inmates could either delay seeking care for an emergency problem because they do not want to be charged a copayment or be charged a copayment for a service they thought was covered by one of the exemptions.

NOTES:

The committee substitute added numerous provisions, including: (1) prohibiting copayments for prenatal or chronic care; (2) requiring TDCJ to adopt policies informing inmates about the fee and allowing inmates to file grievances about the fee; (3) putting the copayment after other statutory deductions from inmates' trust funds; (4) changing the deposit of any surplus copayment funds from the crime victims compensation fund to the general fund; (5) applying the copayment to inmates in facilities under contract with TDCJ and exempting inmates living in halfway house; and (6) changing the effective date from September 1, 1997, to January 1, 1998.

The companion bill, SB 203 by Shapiro et al, passed the Senate on February 13, and has been referred to a subcommittee of the House Corrections committee.