WYOMING LEGISLATIVE SERVICE OFFICE

Research Memo

17 RM 011

Date: **June 23, 2017**

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Re: **Department of Corrections Inmate Medical Care Cost Reduction**

QUESTIONS

1. **How does the Department of Corrections currently administer inmate healthcare?**
2. **What potential inmate medical cost reduction strategies has the Department of Corrections (DOC) considered? What is the average DOC annual inmate medical cost?**
3. **What are high cost medical inmates and how does the DOC control those costs?**
4. **What is the DOC's policy on medical parole? What are the positive and negative consequences of medical parole?**
5. **What is Corrections' policy regarding continued care for parolees?**
6. **What access to Medicare/Medicaid and/or private medical insurance do inmates have?**

ANSWERS

1. **The WDOC contracts with multiple vendors to provide healthcare services for inmates. Prison Health Services was the primary medical provider until its merger with Corizon in 2011. Corizon has remained the provider since the 2011 merger. The current contract expires in June 2018, but may be renewed without bid for up to two years. Therefore, a new, rebid contract will go into effect not later than July 1, 2020.**

   Each DOC facility has a nursing staff. Both the Wyoming Medium Correctional Institution (WMCI) and the Wyoming State Penitentiary (WSP) have a full-time nursing staff which is dedicated to the facility on a twenty-four hour, seven days per week basis, with one full-time physician. The remaining facilities have a nursing staff which is available sixteen hours per day as well as a physician who is contracted for specific hours during the week.

   In terms of the basic steps required to request and administer medical care to inmates, a specific policy is followed at each location in order to coordinate services. If an inmate is in need of medical services, he or she is required to fill out a Health Services Request Form which is forwarded to the medical department at the facility where the inmate is located. The request is reviewed by medical staff and an appointment is then set up for the inmate, which is coordinated by security and the medical nursing staff.

   Mental health and dental appointments are addressed in a similar way, requiring the inmate to

request the appointment. When necessary, an appointment can also be scheduled with a physician or physician's assistant. Outside medical attention can be contracted when necessary for the inmate's care. In the case of inmate hospitalization, WDOC security staff provide 24/7 security in the inmate's room, and daily communication takes place between hospital staff and the WDOC facility where the inmate is housed.

In the case of an emergency, each institution has emergency medical procedures and staff are trained in CPR, emergency first aid and are first responders. Additionally, a nurse can respond to the inmate's location and the inmate can then be transported to the infirmary or by ambulance to an appropriate care facility or setting. Medical staff will only enter an area that has been determined safe by security staff.

2. **According to the DOC, it has actively worked for the past several years to contain and/or slow the rate of growth of the medical services contract with Corizon Health Services, its main medical care provider for inmates. Prior to opening an additional 720 bed facility and returning nearly 600 inmates to Wyoming from being housed out-of-state, the medical and mental health contract was $32 million for the FY2009-2010 biennium. However, the DOC notes that based on a 2014 partnership study between the State, National Governor's Association, and Pew Charitable Trusts, corrections cost reduction may most likely occur if prison populations slow or decline, which is currently not the case in Wyoming.**

Table 1, below, depicts the inmate count, total annual medical cost and annual medical cost per inmate from FY2011 through FY2016. Overall, the number of inmates has ranged from about 2,200 to almost 2,400 each year and the average per-inmate cost for medical care is about $8,400.

Table 1. DOC annual inmate count, total annual medical cost and annual medical cost per inmate, FY2011—FY2016.

FY	Inmate Count	Total Annual Medical Cost	Annual Medical Cost Per Inmate
2011	2,180	$20,672,640.20	$9,482.86
2012	2,297	$20,869,273.86	$9,482.86
2013	2,367	$20,531,256.66	$8,673.96
2014	2,378	$17,510,310.23	$7,363.46
2015	2,228	$19,444,924.05	$8,727.52
2016	2,166	$19,815,516.15	$9,148.44
Total/Average	**15,835**	**$132,572,350.86**	**$8,372.11**

Source: LSO Research staff summary of information provided by the DOC.

Corizon has not raised the per diem rates for several years, and the DOC has contracted with this vendor for 10 years, with an additional two years to come. Additionally, hospital costs were much higher in previous years, but technological advances for telemedicine and telehealth has allowed more patients to be seen with less travel. Purchases of medical equipment maintained

at DOC facilities has reduced the need to transport inmates off-site for medical services which is a savings in medical, transport and staff costs.

According to the DOC, through cooperative partnerships and DOC negotiations, the overall medical contract has been reduced by approximately $2.5 million without a loss in services or medical staffing. This reduction has occurred under the pressures of 4%-5% annual medical expense growth nationwide. Since the Wyoming Medium Correctional Institution (WMCI) began operations, in 2010, DOC medical costs rose to approximately $41 million in FY2013-2014 biennium, with the return of all prisoners to Wyoming. It now stands at approximately $38 million for the FY2017-2018 biennium.

The following list summarizes strategies the DOC says it has implemented to lower its medical costs:

- The WMCI is designed with an enhanced medical unit, which allows for more on-site medical service delivery. This facility limits the need for off-site movement of inmates to area hospitals, where services are more costly and staff allocation more intensive.
- The WMCI also includes a 10 bed female medical unit. The unit includes services for high risk pregnancies, oncology and hospice care.
- For the FY2012 through FY2014 contract period, the DOC and Corizon now shares off-site medical costs 50/50, which has resulted in reducing overall medical costs. Prior to this effort, the vendor assumed 100% of the off-site costs.
- The DOC and the business director for Corizon visited every hospital with which DOC does business. The goal was to point out most of the patients the DOC would bring to them were most likely Medicaid eligible and attempted to negotiate lower rates. In exchange, Corizon agreed to charge the DOC a lower rate as well.

3. **The DOC does not have a formal definition of high medical cost inmates. However, the DOC has protective measures to keep medical costs down for high medical cost inmates. According to the DOC, one option for high cost medical inmates is to have medical vendors purchase stop-loss insurance policies. When an inmate reaches a certain dollar amount, the insurance policy is applied and payment is received through the insurance.**

   The DOC also entered into a 50/50 risk share for off-site medical services with their medical vendor. The risk share begins at zero dollars and has no cap. The DOC and Corizon split the cost of every off-site medical service in half. The DOC Director suggested this agreement in an effort to reduce the medical costs as the vendor is required to pay 50% of all off-site costs regardless of the amount. Corizon also has a centralized utilization management system whereby any request by a facility for an off-site medical service is reviewed first by a team of the vendor's physicians to determine the appropriateness of the off-site request. This brings standardization to the process of requesting off-site medical services.

   The DOC contracts with Western Correctional Consultants (WCC) to provide audits of the

medical and mental health services provided by the contracted vendor. The WCC is an independent contractor comprised of a medical doctor, a doctor of psychology and a registered nurse. Audits are conducted quarterly at the two larger facilities: the Wyoming State Penitentiary (WSP) and the WMCI. Audits are also conducted bi-annually at the three remaining facilities: the Wyoming Honor Farm (WHF), the Wyoming Honor Conservation Camp (WHCC), and the Wyoming Women's Center (WWC). The contracted medical provider is also required to maintain certification through the National Commission on Correctional Healthcare (NCCHC) and the American Correctional Association (ACA).

The DOC and Corizon have also implemented programs to assist inmates in maintaining a healthy weight and good overall health. Programs such as weight loss initiatives, providing healthier options for purchase through inmate commissary, and dietary consults with registered dieticians. These measures help ensure proper nutrition and caloric intake are available at each meal and aid in reducing medical care and cost to the inmate population.

4. **The DOC states that it is supportive of medical parole, but also notes that only five cases have been granted since 2007 when statute was amended to allow for medical parole. The DOC states that it is not aware of the Board of Parole (BOP) acting unfavorably on medical parole applications brought before it. The BOP has a medical parole policy and procedures in their policy handbook. This policy manual establishes provisions to grant medical parole if certain criteria are met by either an eligible or ineligible inmate. Additionally, W.S. §7-13-424 details the requirements for the BOP to grant medical parole. For inmates *eligible* for parole, the criteria for medical parole are listed below:**

    1. The inmate has a serious incapacitating medical need requiring treatment that cannot reasonably be provided while confined.
    2. The inmate is incapacitated by age to the extent that deteriorating physical or mental health substantially diminishes the ability of the inmate to provide self-care within the environment of a correctional facility.
    3. The inmate in permanently physically incapacitated as the result of an irreversible injury, disease, or illness which makes significant physical activity impossible, renders the inmate dependent on permanent medical intervention for survival or confines the inmate to a bed, wheelchair or other assistive device where his mobility is significantly limited.
    4. The inmate suffers from a terminal illness caused by injury or disease which is predicted to result in death within twelve (12) months of the application for parole.

    The board may only grant a medical parole to an otherwise ***ineligible*** inmate if it determines:

    5. Based on a review of all available information, one or more of the conditions specified in paragraphs above [1-4] exist;
    6. That the inmate is not likely to abscond or violate the law if released;

7. That living arrangements are in place in the community and sufficient resources are available to meet the inmates living and medical needs and expenses; and

8. That the inmate does not have a medical condition that would endanger public health, safety or welfare if the inmate were released, or that the inmate's proposed living arrangements would protect the public health safety or welfare from any threat of harm to the inmates medical condition may pose.

See **Attachment A** for the full BOP medical parole policy.

The DOC does not have a formal policy regarding medical parole. However, the DOC states that the medical parole process is almost always initiated by DOC staff with the BOP. Current DOC practices/processes for medical parole include:

- The WDOC caseworker assigned to the inmate who qualifies for medical parole requests consideration by the Board of Parole through the Housing Manager.
- If approved, a multi-disciplinary team meeting is held that includes medical personnel, the caseworker, the Case Team Leader, the Unit and/or Housing Manager and any other staff determined appropriate for the specific inmate.
- If the team supports the medical parole request, the Unit Manager sends an e-mail to the Corizon Health Services Administrator asking for a letter from the treating physician supporting the request.
- The caseworker completes a parole summary outlining how the inmate has progressed during incarceration with respect to education, programming, work and any vocational training as well as any disciplinary violations, work history, criminal history, current crime and length of sentence.
- The parole summary and the letter from the physician are forwarded to the Board of Parole for consideration of granting medical parole.

The DOC states that there is not much research as to the efficacy of medical parole. However, according to a 2010 study by the Vera Institute of Justice, while medical parole may be a promising cost control policy, use of the laws are hindered by unclear eligibility and complicated release procedures. The study noted that thirty-nine states had some form of medical parole, but suggested states clarify eligibility and consider setting an automatic scheduled review of those inmates meeting the criteria, based on age or infirmity. A significant consideration is whether an inmate that could benefit from medical parole would be able to access necessary care upon release.

5. **The DOC stated that the process for assisting parolees with healthcare ideally begins at intake to prison because when the majority of inmates are granted parole and re-enter communities they do not have insurance. Also, if they are disabled, they have lost Social Security benefits while incarcerated. Medical issues are identified at intake and those who**

have significant problems are placed in an enhanced case management (ECM) program. These circumstances mean the inmate not only works with the medical provider in the institution, but also has an institutional caseworker and a field services re-entry coordinator assigned to him/her.

The staff team works with the inmate while incarcerated and also develops a plan to be followed once the inmate is paroled. These plans include where the parolee will reside and what agencies will provide follow-up care. Agencies, along with medical professionals, are contacted prior to release and initial appointments are set-up. Releases are signed so information can be shared regarding what medical issues have been dealt with in the institution. If inmates are placed in programs such as the Joint Re-entry Team (JET) program, which identifies significantly mentally ill inmates, the staff team makes sure the inmate leaves with two weeks of medication and referrals and appointments are set-up prior to release.

In cases where inmates need assisted living, the staff team contacts a local facility, talks to the facility's staff and shares information, with proper releases, about what the parolee needs and what that facility offers. Medical professionals will also share information so that the parolee's needs are known and a plan is in place. The staff team also assists the parolee in applying for benefits which have been lost due to incarceration, such as social security benefits, health insurance or Medicare/Medicaid benefits. The staff team also assists with benefits that may be offered through agencies such as the Department of Family Services or local aid programs.

6. **According to the DOC, inmates are typically not eligible for Medicare or Medicaid while incarcerated. However, there are some exceptions.** The DOC noted two groups of inmates may be eligible for Medicaid: 1) pregnant females, and 2) disabled inmates 65 years, or older.

   The first group, pregnant females, may be covered if they remain hospitalized during labor and delivery for more than 24 hours, and who also meet the income guideline of 154% of the federal poverty level. In 2016, DOC had five female inmates who met the off-site hospital time requirement and presumably the income requirement. They had an average hospital length of stay of nearly 11 days. One of these women was hospitalized for 41 consecutive days.

   For the second group, disabled and 65 years or older, Medicaid would only apply to such qualified inmates who remained hospitalized in a Medicaid reimbursable hospital for more than 30 days. The DOC says that they do not have any inmates that have fit these criteria over the last two years.

   With respect to Medicare, if an inmate is not enrolled in Medicare at the time of incarceration it is not possible to enroll while incarcerated. However, if already enrolled in Medicare, incarcerated beneficiaries are covered only when *both* of the following criteria are met:

   - State or local law requires those individuals or groups of individuals to repay the cost of medical services they receive while in custody; and
   - The state or local government entity enforces the requirement to pay by billing and

> seeking collections from all such individuals or groups of individuals in custody with the state legal status (for example, not guilty by reason of insanity), whether insured or uninsured. It must also pursue collection of the amounts owed in the same manner and with the same vigor that it pursues the collection of other debts. This includes the collection of any Medicare deductible and coinsurance amounts and the costs of items and services that are not covered by Medicare. (DHHS, CMS, ICN, 908084, July 2016)

Additionally, a state must provide evidence that it routinely makes collection efforts, including the filing of lawsuits to obtain liens against incarcerated persons' assets outside of prison and income derived from non-prison sources. A state must also provide the rules and procedures it employs to bill and collect amounts paid for incarcerated persons' medical expenses. (DHHS, CMS, ICN, 908084, July 2016)

Medicare Part A addresses in-patient hospital stays and it currently includes a $1316 deductible. Medicare Part B is outpatient care and presently charges a $134 per month premium. If an eligible person wants to only participate in Part A, the deductible remains. However, should the person opt to participate in Part B at a later time, rather than at the outset, a 10% financial penalty is assessed.

An individual who has been granted Social Security Disability Insurance (SSDI) is also covered under Medicare after two years from the date of the SSDI award. This is not age specific.

Finally, the DOC could not identify any statutes addressing billing private insurance providers for inmates and that it currently does not take these actions to recover its expenses. The DOC also does not require inmate copayments on any medical services while incarcerated. The Affordable Care Act (ACA) excludes incarcerated individuals from its insurance purchasing requirements. However, the DOC may bill and receive payments form the Wyoming Workers' Compensation fund.

The issue of DOC having the authority to "bill and receive payments" from Workers Compensation falls into two categories. The first category includes those inmates who may have been injured and suffered some level of disability preventing the inmate from working and earning. This category is addressed in W.S. 27-14-404(f), which states:

> "(f) Any individual serving time in any penal or correctional institution who is an employee under this act or any probationer or parolee not covered by a qualifying employer-employee relationship performing work pursuant to court order is not eligible for benefits under this section for injuries suffered during the period of incarceration, probation or parole. Upon release from the penal or correctional institution or upon completion of probation or parole, any remaining benefits for which the individual would otherwise qualify for under this section shall be paid from and after the date of release or completion. In addition, any individual classified as a school-to-work participant under this act is not eligible for benefits under this section for injuries suffered during the participation in a school-to-work program activity."

The second category includes inmates entering the system who have rated and compensable

disabilities and medical coverages for those injuries connected to the disability. If an inmate has an open Workers Compensation claim for an injury obtained prior to becoming an inmate and it requires off- site medical care as an inmate, any bills are submitted to Workers' Compensation and are not paid by the DOC medical provider.

If you need anything further, please contact LSO Research at 777-7881.

Attachment A

MEDICAL PAROLE

I. POLICY

A. An inmate who meets the general criteria for parole eligibility may be granted a parole for medical reasons in the Board's discretion.

B. An inmate who is not eligible for a parole under the general criteria for parole eligibility, other than one sentenced to death or life without parole, may be granted a parole pursuant to criteria set forth in paragraphs II A through E of this policy and procedure.

C. If the Board finds that a parole would be appropriate for medical reasons, but the inmate does not meet the criteria for parole eligibility under paragraphs I A or B above, the Board may recommend that the Governor grant a commutation as necessary to achieve parole eligibility.

II. PROCEDURES

A. Notwithstanding any other provision of law restricting the grant of parole, except for inmates sentenced to death or life imprisonment without parole, the Board may grant a medical parole to any inmate meeting the conditions specified in this section. The Board shall consider a medical parole upon receipt of written certification by a licensed treating physician that, within a reasonable degree of certainty, one (1) of the following circumstances exist:

1. The inmate has a serious incapacitating medical need which requires treatment that cannot reasonably be provided while confined in a state correctional facility;
2. The inmate is incapacitated by age to the extent that deteriorating physical or mental health substantially diminishes the ability of the inmate to provide self-care within the environment of a correctional facility;
3. The inmate is permanently physically incapacitated as the result of an irreversible injury, disease or illness which makes significant physical activity impossible, renders the inmate dependent on permanent medical intervention for survival or confines the inmate to a bed, wheelchair or other assistive device where his mobility is significantly limited; or
4. The inmate suffers from a terminal illness caused by injury or disease which is predicted to result in death within twelve (12) months of the application for parole.

B. The Board may only grant a medical parole to an otherwise ineligible inmate if it first determines:

1. That, based on a review of all available information, one (1) or more of the conditions specified in paragraph II A 1 through 4 above exists;

2. That the inmate is not likely to abscond or violate the law if released;

3. That living arrangements are in place in the community and sufficient resources are available to meet the inmate's living and medical needs and expenses; and

4. That the inmate does not have a medical condition that would endanger public health, safety or welfare if the inmate were released, or that the inmate's proposed living arrangements would protect the public health, safety or welfare from any threat of harm the inmate's medical condition may pose.

C. Upon the Board's request, an independent medical evaluation by a licensed physician shall be conducted, provided to the Board and paid for by the Department.

D. The Board shall provide the prosecuting attorney and the sentencing court with prior notice of, and the opportunity to provide input regarding, a medical parole hearing for an inmate who is otherwise ineligible for parole.

E. Decisions regarding applications for a medical parole will be made by a two-thirds majority vote of the full membership of the Board. Hearings may be conducted by three members of the Board. Other members required for the decision will review the written evidence and the audio of the hearings before rendering their decisions either telephonically or in writing. The Board's final decision shall be rendered no less than 15 days from the date of the hearing unless tabled for further information.

F. In cases of decisions granting medical paroles, the Board shall make all of the findings and determinations required by this policy on the record.

G. The Board shall impose terms and conditions of parole as it deems necessary, including but not limited to requiring periodic medical progress reports at intervals of not more than six (6) months, in granting a medical parole. A medical parole may be revoked if the parolee violates a condition of parole or if the medical condition which was the basis for the grant of parole no longer exists or has been ameliorated to the extent that the justification for medical parole no longer exists.

H. In the event the Board finds parole is appropriate for medical reasons for an inmate who is not eligible for parole under general criteria and none of the conditions listed in paragraph II A 1 through 4 exists, the Board may recommend a commutation to the Governor as necessary to achieve parole eligibility.

Effective: July 1, 2012
Supersedes: June 25, 2008