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County Liability for Inmate Medical Care

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Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Table of Contents

County Liability for Inmate Medical Care 3
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County Liability for Inmate Medical Care

Reference Number: CTAS-1378

In *Chattanooga-Hamilton County Hosp. Authority v. Bradley County*, 66 S.W.3d 888 (Tenn. Ct. App. 2001), the plaintiff hospital (Erlanger Health System) sued the county for the payment of medical bills for care provided to an arrestee who was shot by Bradley County officers during his apprehension. The pertinent facts were as follows. "A Bradley County officer shot Dunn in the process of an arrest, and Bradley County EMS requested an air ambulance service from Erlanger. Dunn was transported to Erlanger, accompanied by a County deputy, and was admitted. Dunn was under a police hold while in Erlanger at the request of Bradley County, and upon his release from the hospital, was picked up by the Bradley County Sheriff's Department and taken to the County Jail." *Id.* at 889.

Noting that the trial court had correctly found that it was the county's duty to provide medical care to Dunn, the Tennessee Court of Appeals cited the United States Supreme Court's opinion in *City of Revere v. Massachusetts General Hospital*, 463 U.S. 239, 103 S.Ct. 2979, 77 L.Ed.2d 605 (1983).

In *City of Revere v. Massachusetts General Hospital*, 463 U.S. 239, 103 S.Ct. 2979, 77 L.Ed.2d 605 (1983), officers attempted to detain an individual who attempted to flee, and the individual was shot by an officer. An ambulance was summoned and the individual was taken to Massachusetts General Hospital. The hospital sued the City of Revere seeking payment for medical services rendered. Justice Blackman, speaking for the Court, said at p. 2983 of the Opinion:

The Due Process Clause, however, does require the responsible government or governmental agency to provide medical care to persons, such as Kivlin, who have been injured while being apprehended by the police. In fact, the due process rights of a person in Kivlin's situation are at least as great as the Eighth Amendment protections available to a convicted prisoner. (Citation omitted). We need not define, in this case, Revere's due process obligation to pretrial detainees or to other persons in its care who require medical attention. (Citations omitted). Whatever the standard may be, Revere fulfilled its constitutional obligation by seeing that Kivlin was taken promptly to a hospital that provided the treatment necessary for his injury. And as long as the governmental entity ensures that the medical care needed is in fact provided, the Constitution does not dictate how the cost of that care should be allocated as between the entity and the provider of the care. That is a matter of state law.

Id. at 889 - 890.

Pursuant to T.C.A. § 41-4-115, it is the duty of the county legislative body to provide medical attendance for all prisoners confined in the county jail. The statute is silent with respect to persons who have yet to be confined in the county jail. Relying on this statute, the county argued that state law does not require the county to pay for medical services on the facts of this case. Nevertheless, despite the fact that the United States Supreme Court's holding in *Revere* clearly states that the cost of medical care provided to persons such as Dunn is a matter of state law, the Tennessee Court of Appeals held that implicit in the Supreme Court's holding in *Revere* "is the requirement that the State or responsible governmental agency, in discharging its duty to provide these medical services, must provide the method for payment of these services." *Id.* at 890.

To bolster its conclusion, the Court of Appeals cited the Tennessee Supreme Court's decision in *Bryson v. State*, 793 S.W.2d 252 (Tenn. 1990). In *Bryson*, the issue was whether or not the state of Tennessee is liable for the payment of medical expenses incurred by a convict who is injured while on a furlough from a state institution. The Tennessee Supreme Court held that the state is liable for the medical costs of state prisoners who are out of prison on a temporary furlough. Central to the Court's holding were its findings that the prisoner remained in the state's custody while on furlough and remained a prisoner for the purpose of medical treatment, absent a waiver by the prisoner of the right (under state law) to have the state provide him with medical care. *Bryson*, 793 S.W.2d at 254-255.

Noting the Tennessee Supreme Court's finding that being "in custody" was sufficient to trigger governmental liability for the prisoner's care, the Court of Appeals, finding that Dunn was in the custody of the Bradley County Sheriff's Office while he remained in the hospital, held that the county was liable for Dunn's medical expenses even though he was not confined in the county jail. 66 S.W.3d at 891.

In the case of *In re Estate of Davis*, 1994 WL 44448 (Tenn. Ct. App. 1994), the single issue was whether the estate of a deceased state inmate was liable for the decedent's hospital expenses irrespective of the responsibility of the state of Tennessee to the estate of the decedent for these expenses. Noting that "[t]here is nothing in the language of our statutes to suggest Mr. Davis's status as a prisoner precludes

him or his estate from being liable to pay the hospital for his medical care," the Tennessee Court of Appeals held that the estate of the deceased state inmate was liable for hospital expenses incurred while the inmate was serving his sentence in the county jail. *See also City of Revere v. Massachusetts Gen. Hosp.*, 463 U.S. 239, 245 n. 7, 103 S.Ct. 2979, 2984 n. 7, 77 L.Ed.2d 605 (1983) ("Nothing we say here affects any right a hospital or government entity may have to recover from a detainee the cost of medical services provided to him.").

The attorney general has opined that if an inmate has health insurance coverage, there appears to be no provision of law that would allow the insurance carrier to avoid paying covered medical costs solely because the insured was incarcerated in the county jail at the time the claim arose. However, an individual loses eligibility for TennCare upon becoming incarcerated. Accordingly, TennCare may properly deny coverage to an individual who is incarcerated either before or after conviction. Op. Tenn. Atty. Gen. 97-010 (February 4, 1997). *See also* Op. Tenn. Atty. Gen. 95-095 (September 15, 1995) (A county is permitted to collect from a nonindigent inmate housed in the county jail the cost of providing needed medical or dental care to the inmate. However, the county is the party ultimately responsible for paying providers who render medical or dental services to county inmates.).

As a general rule a county may include medical expenses incurred on behalf of an inmate as jailers' fees taxable in the bill of costs. A defendant convicted of a criminal offense is responsible for paying the costs associated with the prosecution. The costs of a criminal case include all costs incident to the arrest and safekeeping of the defendant, including the costs of the jailer. Op. Tenn. Atty. Gen. 03-072 (June 10, 2003).

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