



## PRISON LAW OFFICE

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### Your Responsibility When Using the Information Provided Below:

*When putting this together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information, and we cannot give specific advice to all prisoners. Laws and policies change often and can be looked at in different ways. We do not always have the resources to make changes to this material as soon as laws or policies change. If you use this pamphlet, it is your responsibility to make sure that the law or policy has not changed. Most of the materials you need should be available in your institution's law library.*

### **INAPPROPRIATE HNR CHARGES AND OFFSITE MEDICAL BILL CHARGES OF ARIZONA PRISONERS Updated April 2019**

Hello,

This letter contains information on what to do if you are incorrectly charged for submitting a Health Needs Request (HNR), for an ICS, or if you receive a medical bill for offsite care while in ADC custody.

### **HNR Charges**

ADC can charge you \$4 for a health care encounter. It is permissible for them to charge you the \$4, as the Ninth Circuit held that the imposition of a co-payment scheme for the provision of health care in prison does not on its face violate the Eighth Amendment's prohibition on cruel and unusual punishments, unless there is evidence the person was denied medical treatment because he or she is unable to pay. *Shapley v. Nevada Bd. of State Prison Comm'rs*, 766 F.2d 404, 408 (9th Cir. 1985). However, in an unpublished opinion, the Ninth Circuit held it could violate the Eighth Amendment if a doctor recommends "the purchase of over-the-counter medication with the knowledge [the prisoner] may have lacked funds to make such a purchase," as that is the "effective denial of medical treatment." *Keller v. Faecher*, 44 F. App'x. 828, 831 (9th Cir. 2002) (unpublished).

ADC's Department Order 1101, states you do **not** have to pay the copay in the following cases:

- You are being seen for a chronic care condition (see list of chronic care conditions on last page). This includes mental health appointments for people classified as seriously mentally ill (SMI).
- You were injured while performing job duties.
- Your health visit was requested by medical, dental, or mental health staff, and/or is a follow up encounter to a previous health visit that was ordered by health care staff.\*\*
- Your visit to a health care provider is due to a referral from another provider.

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- You are currently in a reception center.
- You are a minor.
- You are pregnant or being seen for pregnancy related issues (including after giving birth).
- You are developmentally disabled.
- You are assigned to an IPC (Inpatient Component) infirmary unit.
- You are at ASPC-Phoenix Alhambra Psychiatric Hospital or Flamenco Mental Health Center.
- You are undergoing administrative examinations required by Department Order, such as:
  - Physical examinations for assignment to fire-fighting crew and the kitchen.
  - Physical examinations of people who are returned to custody.
  - Response to suicide prevention/watch or progressive/maximum behavior control.
- You are requesting additional hygiene products due to medical issues.

*\*\* On April 4, 2019, Corizon and ADC staff at ASPC-Perryville informed our office that a “follow up encounter” may include nursing encounters. They said that if a patient submits a HNR regarding a medical problem and is seen on nurse’s line, and then submits a subsequent HNR regarding the exact same problem and is again seen on nurse’s line, then this is considered a “follow up encounter” and the patient should not be charged to be seen again on nurse’s line.*

If you are charged and fall under any of the above categories, you should file a grievance or send an inmate letter (Form 916) to the Facility Health Administrator. You should write:

- what type of health care encounter you were charged for and the date of the encounter;
- that you are not supposed to be charged for that type of appointment pursuant to Department Order 1101 or another ADC policy; and
- that you request that ADC remove the charges from your inmate trust account.

If possible, attach a copy of your inmate trust account balance with the letter, and highlight, circle, check-off, or otherwise show exactly which charges you are disputing. If you are unhappy with the response, you should file the grievance to the next level. Information on the grievance process is included with this letter.

### **Offsite Medical Care Bills**

You should not be charged for offsite medical services. If you receive a bill for an offsite medical service while in ADC custody, please send us a copy of the bill. We will review it and, if appropriate, forward the information to the attorneys for Corizon and ask them to ensure that Corizon pays the bill. If we do, we will send you a copy of the letter to Corizon, and return the bill to you for your records. We also encourage you to file a grievance about the bill. Thanks for writing, we hope this information is helpful.

Sincerely,

Prison Law Office

Encl. Exhaust Memo

## **List of Chronic Care Conditions Requiring Regular Examinations and/or Treatment at ADC Statewide Facilities**

- Blood Diseases (including those on anticoagulants, or for a term greater than 6 months)
- Cancer (monitored)
- Coccidioidomycosis
- Crohn's Disease
- Diabetes (monitored)
- End Stage Liver Disease
- Heart Disease (monitored)
- Hepatitis C
- HIV/AIDS (monitored)
- Hyperlipidemia
- Hypertension (monitored)
- Hyperthyroidism
- Latent Tuberculosis Infection (LTBI) (identified by a positive Purified Protein Derivative (PPD) Test) (monitored)
- Neurologic Disorders (example: Parkinson's, Multiple Sclerosis, Myasthenia Gravis)
- Renal Disease/Chronic Kidney Disease
- Respiratory Disease (example: COPD, Asthma, Cystic Fibrosis, Chronic Bronchitis) (monitored)
- Rheumatologic Disease (example: Lupus, Rheumatoid Arthritis)
- Seizure Disorder (monitored)
- Serious Mental Illness (SMI<sup>1</sup>) (monitored)
- Sickle Cell Disease

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<sup>1</sup> "Seriously mentally ill" means patients "who as a result of a mental disorder as defined in § 36-501 exhibit emotional or behavioral functioning which is so impaired as to interfere substantially with their capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration and whose mental disability is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living, including interpersonal relationships, self-care, employment and recreation." Ariz. Rev. Stat. Ann. § 31-201.01(I).