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An Update on Achieving A Constitutional Level of Correctional Medical Care

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Hon. Loni Hancock, Chair





Spending on Adult Correctional Health Care Is High

Type of Expenditure	Per Inmate Costs	Total Inmate Costs (In Millions)
Medical care	\$11,512	\$1,402
Mental health care	2,148	262
Pharmaceuticals	1,262	154
Dental care	1,111	135
Totals	\$16,033	\$1,953

- The state spent about \$2 billion on correctional health care in 2012-13, which was more than \$16,000 per inmate.
- About \$11,500 of the per inmate correctional health care cost is specifically for medical care.
- According to the most recently available data, California spends more per inmate on correctional health care than any other state in the nation.



The Federal Receivership



Plata v. Brown

- In 2001, a class-action lawsuit, later renamed *Plata v. Brown*, was filed in federal court contending the state violated the Eighth Amendment of the U.S. Constitution by providing inadequate medical care to inmates.
- In 2006, the federal court appointed a Receiver to take over the direct management and operation of the state's prison medical care delivery system from the California Department of Corrections and Rehabilitation (CDCR).



Turnaround Plan of Action

- In June 2008, the federal court approved the Receiver's plan—commonly known as the “Turnaround Plan of Action”—to achieve a sustainable constitutional level of medical care.
- The plan identified six major goals for the correctional medical care program, including specific objectives and actions for each. Specifically, the goals are to:
 - Ensure timely access to correctional medical care services.
 - Establish a correctional medical program addressing the full continuum of health care services.
 - Recruit, train, and retain a professional quality medical workforce.
 - Implement a quality assurance and continuous improvement program.
 - Establish medical support infrastructure.
 - Provide for necessary clinical, administrative, and housing facilities.
- The Receiver provides tri-annual updates to the court on the progress that has been made towards reaching the goals and objectives in the plan. As of February 2014, the Receiver had completed more than 70 percent of the stated objectives.



Achieving a Constitutional Level of Medical Care



State Must Meet Various Benchmarks

- The federal court has indicated that in order for the state to exit the federal receivership, the state must demonstrate that it can provide a sustainable constitutional level of care. The court has stated that there is no one clear benchmark to prove that the state has achieved that goal. However, the court has developed several evaluation tools that the state can use as evidence of a constitutional level of care.



Office of the Inspector General (OIG) Audits

- In order to evaluate and monitor the Receiver's progress toward achieving the Turnaround Plan goals, the OIG established a medical inspection program based on a 2002 settlement agreement that created specific measures of constitutional care.
- Specifically, the OIG uses a weighted inspection tool with over 100 questions about chronic care, health screening, and other medical services. The inspection tool is currently being modified to have a greater focus on the quality of care and less on timeliness and access to care.
- To date, the OIG has audited each prison three times, with the statewide average compliance rate for the most recent audit being 87 percent. Third-round compliance rates ranged from a low of 78 percent to a high of 93 percent.



Achieving a Constitutional Level of Medical Care *(Continued)*



Court Expert Audits

- Previously, the court appointed three medical experts to evaluate some of the institutions that had achieved an OIG audit score of at least 75 percent. If two of the three experts concluded that medical care at the prison was constitutionally adequate, then that institution was deemed by the court to be providing a constitutional level of care.
- Despite achieving relatively high OIG audit scores, none of the ten prisons reviewed by court experts were found to be providing a constitutional level of care.
- In March 2014, the court issued an order suspending the court expert audits and ordering the court experts to work with the Receiver to address systemic medical care issues and to work with OIG to refine the OIG medical inspection process.



Court Expert Audits Have Identified Numerous Issues



Personnel

- The court experts have found that prisons with higher acuity inmates appear understaffed and rely heavily on registry and overtime, as well as suggested that the manner in which the Receiver staffs prisons may not work for those high acuity prisons.
- The experts also noted that correctional health care custody staffing ratios may be insufficient at some prisons and have led to delays in access to care. In addition, they note that several prisons have high staff vacancy rates.



Inmate Transfer Process

- The court experts also identified several issues with the process of transferring inmates, such as from one prison to another.
- Specifically, the experts found:
 - There is inadequate space to evaluate inmates for medical issues when they arrive at the prison.
 - Inmates are transferred when they have medical appointments scheduled, leading to them missing those appointments.
 - Inmates who have a medical test with abnormal findings and then transfer prisons do not receive appropriate follow-up care.
 - Inmates who transfer prisons do not receive their prescribed medications when they arrive.



Court Expert Audits Have Identified Numerous Issues *(Continued)*



Quality of Care

- The audits identified several issues with the quality of care delivered to inmates.
- Specifically, the experts found:
 - Providers do not include sufficient documentation of their visits with inmates, such as noting the results of tests performed or documenting the follow-up care ordered.
 - Inmates with chronic diseases (such as heart disease) do not receive adequate care (such as regular check-ups).
 - Inmates do not receive medical care within the court-ordered time frames.



Custody Staff

- Court expert auditors also raised concerns about the relationship between custody and clinical staff.
- Specifically, they noted clinicians defer to custody staff on issues which affect access to and quality of correctional health care services. For example, the experts documented a situation where custody staff did not want to remove an inmate's handcuffs while he had his blood pressure checked, even though that may significantly affect the accuracy of the blood pressure reading.



Other Medical Care Challenges Facing the State



Valley Fever

- The Receiver was recently named as a defendant in a civil case regarding inmate placement and treatment for Valley Fever.
- Specifically, the lawsuit alleges that the Receiver neglected to implement sufficient infection control measures to prevent vulnerable inmates from contracting Valley Fever, resulting in serious disability and death.
- In August 2013, the Receiver instituted several policy changes to exclude vulnerable inmates from being sent to prisons with high rates of Valley Fever.



Activation Problems With California Heath Care Facility (CHCF)

- The CHCF was designed to provide medical care to inmates with the most severe medical and mental health problems. The facility began admitting patients in fall 2013.
- The Receiver's Twenty-fifth Triannual Report identifies a number of serious problems with the activation of CHCF. These include:
 - Inadequate clinical and custody staffing, which resulted in patients missing medical appointments and slow responses to urgent medical situations.
 - A lack of basic medical and hygiene supplies, which resulted in patients having medical complications due to improperly-sized catheters and an outbreak of scabies.
 - A slow response to the above problems, which resulted in possibly preventable death and significant financial waste.