

Alabama

I. County Funded Care

Under Alabama law, financial responsibility for the care of indigents is the responsibility of the county. Article IV, Section 88 of the Alabama Constitution requires counties "to make adequate provision for the maintenance of the poor."¹ This duty has been further codified under Alabama's Health Care Responsibility Act.² That statute places the "ultimate financial obligation for the medical treatment of indigents" on the county in which the indigent resides, "for all costs not fully reimbursed by other governmental programs or third-party payers."³

Patients are eligible for county funded care if (1) they have resided in the state for at least one year, (2) are acutely ill or injured and can be helped markedly by treatment in a hospital, and (3) are unable to pay the cost of their hospitalization from his own resources or from the resources of individuals upon whom they are legally dependent.⁴

Alabama's courts have repeatedly enforced this duty in disputes between state and county officials over indigent health care costs. The Alabama Supreme Court has noted that treatment of the indigent poor is primarily a county and not a state responsibility.⁵

Under the Health Care Responsibility Act, counties also bear ultimate responsibility for treatment received by indigent patients at regional referral hospitals for emergency services and non-emergency services that are unavailable at county facilities.⁶ County responsibility for such care is limited to 30 days per year or the annual number of inpatient days allowed for Alabama Medicaid patients, whichever is less. In addition, counties are not required to pay for regional referral hospital services for patients who have received Medicaid benefits for any part of the year when treatment was received.

¹Ala. Const., Art. IV, section 88.

²Ala. Code §§ 22-21-290 through 22-21-297.

³Ala. Code § 22-21-291.

⁴Ala Code § 22-21-292.

⁵In *Childree v. Health Care Auth.*, 548 So. 2d 419 (Ala. 1989), the court held that counties, rather than the state, are responsible for the precommitment care and treatment of indigent patients who are involuntarily committed to the Department of Mental Health.. This holding was effectively reversed by the legislature's enactment of Ala. Code § 22-52-93, which expressly absolves counties from responsibility for paying the costs associated with temporary confinement of individuals in designated mental healthy facilities. However, the basic principle of the *Childree* case is not affected by this statutory change.

⁶Ala. Code § 22-21-293.

The courts have rejected county challenges to the constitutionality of the Health Care Responsibility Act based upon allegations that it is unconstitutionally vague, that it may cause counties to incur substantial debts and requires counties to grant public monies in aid of private individuals and institutions, in violation of state constitutional guarantees.⁷ In rejecting these challenges, courts have noted that The Health Care Responsibility Act is in accord with a county's responsibility to make provision for the needs of the poor under Alabama Constitution Art. IV, section 88.⁸

B. County Health Facility Taxes

The Alabama Constitution authorizes the legislature to permit counties to use special county taxes levied to maintain county health facilities for various public hospital purposes, including payment of hospital care rendered to the indigent.⁹ However, any portion of the tax that has been pledged for payment of obligations, must be used to pay those obligations.

C. Hospital Service Program for Indigents

The Alabama Legislature, like that of many other states, has authorized programs for indigent care that have never been funded. In 1957, the Alabama Legislature enacted the Hospital Program for the Indigent, which was intended to provide hospital care for indigent patients who are acutely ill or injured in institutions other than hospitals operated primarily for the treatment of mental disease or tuberculosis.¹⁰

Counties wishing to participate in the program are required to determine the indigency of county residents and to match funds annually appropriated by the state.¹¹ However, while this program remains on the books, it has never been funded and exists in name only.¹²

D. Cancer Treatment

⁷See *Bd. of Comm'rs of Wilcox County v. Bd. of Trustees of the Univ. of Alabama*, 483 S.2d 1365 (Ala.Civ.App. 1985) (statute not unconstitutionally vague); *Marengo County v. Univ. of South Alabama*, 479 So.2d 48 (Ala.Civ.App. 1985) (statute does not violate state constitutional guarantees).

⁸*Marengo County*, 479 So.2d at 51. The appellate court also spurned claims that the trial court could not order payment of such costs because the county lacked funds to pay these expenses. In rejecting this claim, the appeals court noted that the trial court was empowered to order payment of the claim in question from future funds. *Id.* at 49-50.

⁹Ala. Const. of 1901, Amend. 125.

¹⁰Ala. Code § 22-21-210 et seq.

¹¹Ala. Code § 22-12-220.

¹²The program contains features which, forty year later, appear anachronistic. Physicians treating patients hospitalized under this program are expressly prohibited from collecting any public funds for their services, although they are permitted to bill indigent clients and their families for their services. Ala. Code § 22-21-219.

Since 1943, Alabama law has charged the state board of health with responsibility for formulating a plan for the care and treatment of indigent persons suffering from cancer.¹³ In 1995, the Legislature shifted the focus of the state's cancer treatment laws, creating a statewide cancer registry.¹⁴ As part of this same bill, the Legislature repealed statutes that authorized the state board of health to provide financial assistance for the diagnosis and treatment of cancer as part of this program and eliminated state law requirements that the board plan and execute a program of early diagnosis to be carried out in twelve areas of the state over the course of the year.¹⁵ However, the board is still authorized to provide an annual program for the early diagnosis of cancer for state residents, to the extent it deems practicable.¹⁶

E. Perinatal Health Services

Alabama law provides for the use of available funds to provide medical care and transportation for women and infants at high risk for infant mortality or major handicapping conditions who are unable to pay for "appropriate care."¹⁷ These funds may be used to provide prenatal care, transportation, hospital care for high risk mothers and infants, outpatient care in the first year of life and educational services to improve such care, including optional educational programs, for pupils in schools at appropriate ages, subject to local school board approval.

F. Treatment of Individuals Involuntarily Confined

Alabama law provides for involuntary removal or confinement of a large number of individuals with communicable diseases. As a matter of necessity, treatment of indigent individuals confined under these circumstances is a matter of public responsibility. The state board of health pays for the costs of compulsory treatment and maintenance of persons committed to tuberculosis hospitals¹⁸ and indigent patients quarantined for treatment of sexually transmitted diseases.¹⁹ State, county and city penal facilities are required to provide treatment for inmates with treatable sexually transmitted diseases.²⁰ County health officers are empowered to remove homeless individuals afflicted with communicable diseases designated by the state board of health to places provided for them by the city, county or town where they are found. The city, county or town in which they are found bears the ultimate financial

¹³Ala. Code §§ 22-13-1 et seq.

¹⁴Ala. Code §§ 21-13-30 et seq.

¹⁵Former Ala. Code § 22-13-2 and 22-13-5.

¹⁶Ala. Code § 22-13-5.

¹⁷Ala. Code § 22-12A-6.

¹⁸Ala. Code §§ 22-11A-10.

¹⁹Ala Code § 22-11A-18.

²⁰Ala. Code §22-11A-17.

responsibility for the costs of removing a homeless person under these circumstances.²¹

G. Other Programs

The state administers a number of other programs that provide health services to indigent patients. The Department of Health administers a program for the prevention and treatment of osteoporosis charged with responsibility for providing education and information on osteoporosis treatment and prevention and improving the capacity of community-based services available to osteoporosis patients.²² The board of health is empowered to authorize hospitals to admit indigent patients suffering from other chronic lung diseases at state expense.²³

²¹Ala. Code § 22-11A-8.

²²Ala. Code § 22-13A-2.

²³Ala. Code §§ 22-11A-11.