

# Idaho

## I. Government Funded Indigent Care

### A. Idaho's Medically Indigent Program

Chapter 35 of the Idaho Code establishes Idaho's program of health care for the indigent sick. Over the past two decades, Idaho's counties and providers of health care to the poor have been locked in an almost constant struggle over county responsibility for the indigent health care under this law. Idaho's counties have resisted providers' claims on various procedural and substantive grounds with little success.

State courts have long expressed frustration at the lack of clear standards under Idaho's medically indigent laws.<sup>1</sup> However, state courts have concluded that they lack the authority to require state or local government to establish eligibility standards under the statute.<sup>2</sup> To fill the void left by the inaction of state and local officials, Idaho's courts established their own standards for interpretation of the very general provisions contained in Chapter 35.<sup>3</sup>

Last year, the Idaho legislature enacted legislation that set specific standards for county administration of indigent health programs. In so doing, the legislature significantly weakened judicially established guarantees, overturning a series of state court decisions that provided relatively broad protections for poor patients.

While Chapter 35 of the Idaho Code explicitly authorized only hospital care for the poor, courts had construed its provisions to apply to indigent care generally.<sup>4</sup> In amending Idaho's indigent care statutes, the Idaho legislature contracted the range of services available to indigent patients.<sup>5</sup> Counties are still required to provide or reimburse services that are required to identify and treat health conditions,

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<sup>1</sup>In a decision that construed Idaho's statutes to require emergency care for non-residents, the Idaho Supreme Court stated, "Today adds another Chapter to the confusion that abounds in Idaho's medical indigency acts. Only a complete redrafting of these acts will ever satisfactorily clear up the numerous ambiguities and inconsistencies which the acts have created." *East Shoshone Hospital District v. Nonini*, 712 P.2d 638 (Idaho 1983).

<sup>2</sup>*Powers v. Canton County*, 707 P.2d 1342 (Idaho 1985).

<sup>3</sup>The courts, in general, have been less than pleased with absence of clear statutory standards in Idaho's indigent care statutes.

<sup>4</sup>*See Saxton v. Gem County*, 750 P.2d 950 (Idaho 1988) (doctor's services are covered under former statute, whether physician is on paid staff of hospital or is an independent contractor).

<sup>5</sup>Idaho Code §§ 31-3502.A and 3509.

illnesses and injuries.<sup>6</sup> However, the legislature has singled out several vital services for exclusion, including bone marrow and organ transplants, elective procedures, pregnancy and childbirth services, and well-baby care.<sup>7</sup>

The general standard for qualifying for benefits under this statute is simple: to be eligible for medical services, individuals must demonstrate that they need medical services and lack the income and resources to pay for them.<sup>8</sup> There are no statutory limits on income or resources. If an individual's medical expenses exceed their resources, the county is obliged to furnish care.<sup>9</sup>

In addition, Idaho's courts had imposed limits on the types of property that could be considered in determining eligibility, excluding non-liquid resources from calculation for purposes of aid.<sup>10</sup> Idaho's courts only allowed the counties to consider available resources, requiring county funded care if the patient lacked the present ability to pay.<sup>11</sup>

In contrast, under the legislature's recent amendment to the indigent care law, available resources are defined in an extraordinarily broad fashion. Resources now include any potential source of payment, including property that is liquid or non-liquid, real or personal, tangible or intangible.<sup>12</sup> Public benefits, Medicaid and Medicare benefits, worker's compensation and all other sources of funding in which a patient may have an interest are considered to be resources.<sup>13</sup>

In addition, this new legislation arguably would allow counties to deny eligibility for care based upon the theoretical ability of a patient to pay for care at a later date. The "ability of an applicant and obligated persons to pay for necessary medical services for a period of up to three years" is a resource for

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<sup>6</sup>Idaho Code § 31-3502.A. Idaho's courts have rejected county efforts to avoid payment for self-inflicted injuries, noting that the need for treatment of a patient suffering the effects of a suicide attempt are no less than for an individual who is injured in some other manner. *St. Alphonsus Regional Medical Center v. Twin Falls*, 732 P.2d 278 (Idaho 1987).

<sup>7</sup>Idaho Code § 31-3502.B.

<sup>8</sup>Idaho Code § 31-3502(1).

<sup>9</sup>*Idaho Falls Consolidated Hospitals v. Board of Comm'rs*, 712 P.2d 583 (Idaho 1985), *Salinas v. Canyon County*, 786 P.2d 611 (Id. App. 1990).

<sup>10</sup>*Jefferson County v. Eastern Idaho Regional Medical Center*, 903 P.2d 84 (Idaho 1995).

<sup>11</sup>*University of Utah Hospital & Medical Center v. Twin Falls County*, 842 P.2d 689 (Idaho 1992).

<sup>12</sup>Idaho Code § 31-3502(17).

<sup>13</sup>This provision overturns the Idaho Supreme Court decision in *University of Utah Hospital & Medical Center v. Twin Falls County*, 842 P.2d 689, which held that a pending claim for Medicaid benefits could not constitute an available resource. The court concluded that requiring hospitals to wait for payment pending resolution of Medicaid claims would unfairly deny hospitals the right to prompt reimbursement.

purposes of determining eligibility for county funded health care.<sup>14</sup> Only homesteads and a few types of personal property that are exempt from levy under Idaho law are excluded from calculation as resources.<sup>15</sup>

In one respect, this definition of resources is still narrower than the definition urged by counties in past cases. Idaho's courts have rejected county arguments that hospital uncompensated care obligations under the Hill-Burton Act and potential care at Veteran's Hospitals constitute available resources, based upon their conclusion that the term "resources" refers to actual payments that could be made to hospitals.<sup>16</sup> Since the new legislation describes resources as "potential sources of payment," this line of cases still may possess some vitality.

In addition, state law imposes extraordinarily stringent reimbursement requirements on patients. Under the 1996 amendments, counties acquire a lien on all real and personal property of indigent patients, without exception, at the time they file applications for assistance.<sup>17</sup>

In addition, the legislature has made residency requirements for medical treatment considerably more stringent. Under the terms of the new statute, county obligations to non-resident indigent patients extend only to emergency care.<sup>18</sup>

To be considered a resident for purposes of obtaining non-emergency care, an individual must live within the county for at least 30 days or more. In addition, seasonal workers and students and other individuals whose residence is "temporary" are limited to emergency care.<sup>19</sup> The legislature also enacted a provision apportioning responsibility for care based upon length of residence. The last county in which an individual has resided for a period of six months or longer is obligated to pay for the cost of their care.<sup>20</sup>

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<sup>14</sup>Idaho Code § 31-3502(17). The methods a county might seek to use to determine the value of this "resource" is anybody's guess.

<sup>15</sup>In past cases, Idaho's courts have excluded from calculation as a resource other property that was exempt from levy, such as Social Security benefits. *Intermountain Health Care, Inc. v. Board of County Comm'rs*, 712 P.2d 582 (Idaho 1985). The court had reasoned that since the hospitals could not levy on this property, providers would still be without means to collect their bills, if the county did not provide aid. *Id.* In amending the statute, the legislature apparently rejected this reasoning.

<sup>16</sup>*Braun v. Ada County*, 643 P.2d 1071 (Idaho 1982) (Hill-Burton obligation does not constitute a resource).

<sup>17</sup>Idaho Code § 31-3504(4)

<sup>18</sup>Idaho Code § 31-3501(1) and (3). Idaho's courts traditionally have required counties to pay for emergency care of non-residents. See *East Shoshone Hospital District v. Nonini*, 712 P.2d 638 (Idaho 1983).

<sup>19</sup>Idaho Code § 31-3502(12).

<sup>20</sup>Idaho Code § 31-3506(2).

The state legislature has attempted to limit county liability in a number of additional ways. To obtain reimbursement, private hospitals must notify counties within 24 hours of the admission of an indigent patient. Counties may require hospitals to transfer indigent patients whose conditions have stabilized.<sup>21</sup> In addition, county's are only required to pay providers at Medicaid or Medicare rates.<sup>22</sup>

State concerns over the cost of care have even infected the appeals process. State statutes establish a detailed application and appeals process for patients seeking county provided care, culminating in judicial review.<sup>23</sup> These statutes set fixed timelines for applications, investigations and appeals. However, patients may delay submission of applications for medical care for up to 180 days and counties may continue hearings for periods of up to 45 days to allow patients to pursue third party reimbursement for medical care.<sup>24</sup>

Under Idaho case law, hospitals as well as patients have a right to appeal decisions denying payment for indigent health care.<sup>25</sup> Counties have an obligation to act on applications in a timely fashion. If counties fail to act within statutory limits, they must pay the expenses in question.<sup>26</sup>

In addition, this new legislation overturned the decision of the Idaho Supreme Court that required counties to reimburse out-of-state hospitals for services provided to Idaho residents.<sup>27</sup> Under the 1996 amendments, the governor may enter into reciprocal agreements with other states to pay for the care of state Idaho residents, but until this occurs, rural Idaho residents will be deprived of access to vital tertiary services that may be available across state borders, in Salt Lake City and Spokane.<sup>28</sup>

Finally, under this new legislation, the state and the counties have divided responsibility for the costs of indigent care. Counties are required to pay up to \$10,000 over a twelve month period for the medical care of an indigent resident, and up to \$5,000 for the emergency care and transfer of indigent nonresidents to their place of residence.<sup>29</sup> To meet this obligation, counties may assess an ad valorem tax

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<sup>21</sup>Idaho Code § 31-3507.

<sup>22</sup>Idaho Code § 31-3508. *See also University of Utah Hospital v. Jefferson County*, 720 P.2d 184 (Idaho 1986) (county was liable only for unpaid balance due hospital under Medicare rate, or \$1,500, not the \$9,000 balance of total bill claimed by the hospital).

<sup>23</sup>Idaho Code §§ 31-3505 *et seq.*

<sup>24</sup>Idaho Code §§ 31-3505(4) and 31-3505E.

<sup>25</sup>*Intermountain Health Care, Inc. v. Board of County Comm'rs*, 712 P.2d 582.

<sup>26</sup>*St. Luke's Regional Medical Center v. Gem County*, 695 P.2d 383 (Idaho 1985).

<sup>27</sup>*University of Utah Hospital & Medical Center v. Bethke*, 611 P.2d 1030 (Idaho 1980),

<sup>28</sup>Idaho Code §§ 31-3503B(2)

<sup>29</sup>Idaho Code § 31-3501(1) and (3).

of .1% on assessed property within the county.<sup>30</sup> The state bears the burden of paying any additional costs under the state's catastrophic health care cost program.<sup>31</sup>

### B. County Hospitals

Counties are authorized to establish and maintain county hospitals and nursing homes. Counties may levy a property tax of .06% for this purpose.<sup>32</sup>

### C. Other Services

Idaho funds cystic fibrosis treatment for children,<sup>33</sup> alcohol and drug abuse treatment,<sup>34</sup> testing and treatment for sexually transmitted diseases,<sup>35</sup> for metabolic disorders in infants,<sup>36</sup> for treatment of newborn eye infections,<sup>37</sup> and for prevention of congenital syphilis.<sup>38</sup>

## II. Government imposed obligations for provider financed care

### A. Emergency Care

Idaho law does not mandate the provision of emergency care to anyone. However, Idaho law does provide that emergency services may not be refused "by reason of race, creed, national origin or financial inability to pay therefor."<sup>39</sup>

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<sup>30</sup>Idaho Code § 31-863.

<sup>31</sup>Idaho Code § 31-3503A.

<sup>32</sup>Idaho Code § 31-3501(4).

<sup>33</sup>Idaho Code § 39-147

<sup>34</sup>Idaho Code § 39-300 et seq.

<sup>35</sup>Idaho Code § 39-600 et seq.

<sup>36</sup>Idaho Code § 39-907.

<sup>37</sup>Idaho Code § 39-901.

<sup>38</sup>Idaho Code § 39-1000.

<sup>39</sup>Idaho Code § 39-1391b