

Louisiana

I. Government Funded Indigent Care

A. Parish Poor Relief

Under state law, the governing authorities of each parish are required to “provide for the support of all infirm, sick, and disabled persons residing within the limits of their respective jurisdictions, except those who reside in municipal corporations either exempt or partially exempt from taxation.”¹ Other provisions of state law grant parishes and municipalities additional authority to provide for the destitute.² State law specifically authorizes one funding mechanism for aid to the poor. Parishes that contain cities with populations of between 25,000 and 100,000 residents must set aside ten percent of all fines and forfeitures in criminal cases for the creation of an alms fund.³ Most parishes do not provide medical care as part of their poor relief. However, similar state laws in other states have been construed to encompass the obligation to provide medical care.⁴

B. State Hospitals

Louisiana has a long history of providing care to its poor through its state run hospitals.⁵ Under Louisiana law, residents of the state who are medically indigent or medically needy are eligible for

¹46 La. Rev. Stat. § 461.

² State law empowers parishes to provide for destitute residents over the age of 40 who have been crippled or deformed since birth, and have never been convicted of any criminal offense. 46 La. Rev. Stat. § 541. Municipalities are empowered by state law to provide for the poor through taxation and other means. 33 La. Rev. Stat. § 7501. This statute specifically authorizes towns and cities to provide emergency nutrition and medical assistance to prevent dehydration.

³46 La. Rev. Stat. § 501. As California’s experiment with realignment demonstrates, the use of fines and fees has promise as a method of financing indigent care. However the use of these fines to fund indigent assistance has little utility in Louisiana, because of obsolete limits placed upon the collection of such fees by state law. Under Louisiana law, collection of fines and penalties for parish alms funds cease when the fund reaches \$25,000. This \$25,000 is to be set aside, with interest earned on this amount being used to finance aid for the indigent.

⁴California’s poor relief law, which contains nearly identical language, has long been construed to require the provision of medical care.

⁵The state’s charity care hospitals are funded through state appropriations, although the governing bodies of Louisiana’s parishes are authorized to appropriate up to \$1,000 per year for the support of the state’s charity hospitals and up to \$300 per year to assist charity hospitals in surrounding states. 46 La. Rev. Stat. § 4.

treatment by any general hospital owned by the State of Louisiana.⁶ Other patients may be admitted on a space available basis, although emergency care cannot be denied to anyone. Patients who are not indigent or needy are charged on a sliding scale basis.⁷

Recently, the Louisiana legislature recognized that the indigent care system is in crisis because the state's nine charity care hospitals have been beset by problems such as chronic understaffing, significant deterioration of physical plants and equipment, reduced ability to recruit medical residents and the possible loss of accreditation as teaching hospitals.⁸ To rectify this situation, the legislature created the Louisiana Health Care Authority, which is charged with developing a comprehensive plan to rescue the state's charity care hospitals.⁹ The authority has been granted the power to collect funds for the hospitals, to issue and market bonds on their behalf, to make expenditures, and to oversee the hospitals' operations.

B. Other State Facilities

Indigent patients who have resided in Louisiana for at least a year are eligible for admission to any tuberculosis hospital operated by the state upon recommendation of a registered physician.¹⁰ The Department of Health and Human Resources is authorized by state law to establish clinics in New Orleans and Shreveport in connection with the Louisiana State University and Tulane University for the treatment of sickle cell anemia.¹¹ Services must be provided at these clinics regardless of patients' financial situation or where they live and without regard to the standard eligibility criteria for charity hospitals.

C. State Funded Indigent Care

Louisiana's Department of Health and Human Resources (DHHR) is authorized to provide for the care and treatment of indigent patients, including mentally retarded and mentally ill patients, in privately owned hospitals and other institutions.¹² DHHR may also furnish indigent patients with dental, medical, surgical and other treatment and may employ physicians and staff to care for the poor.

⁶46 La. Rev. Stat. § 6.

⁷*Id.* The state's charity care hospitals charge indigent patients a minimum fee of three dollars and fifty cents, unless they are totally without funds or unless the imposition of such a fee would violate federal Medicare or Medicaid statutes.

⁸46 La. Rev. Stat. § 701.

⁹4 La. Rev. Stat. § 701 *et seq.*

¹⁰40 La. Rev. Stat. § 2012.1.

¹¹40 La. Rev. Stat. § 1299.4. State law authorizes the creation of five additional sickle cell anemia centers, to the extent one hundred percent federal funding can be obtained for these centers. 40 La. Rev. Stat. § 1299.4.1.

¹²40 La. Rev. Stat. § 2017.

D. Rural Health Care

The Department of Health and Hospitals is authorized to establish a community based and rural health program to expand health services to the indigent. State law provides for grants to rural hospitals of up to \$150,000 to establish primary care centers and matching funds of up to \$50,000 to local communities to encourage physicians to establish practices in underserved communities through guarantees of minimum salaries.¹³

E. Community Indigent Health Program

Like many legislatures around the country, the Louisiana legislature has a penchant for passing statutes that authorize the provision of health care to the poor, but providing no funds for the actual operation of these programs. State statutes call for the creation of a Community Indigent Health Program, but specifically provide that no state funds shall be used for the operation of the program.¹⁴ If funding is ever obtained for this program, the Community Indigent Health Program will provide grants of up to \$50,000 per year for up to three years to local health care providers to establish organized systems of primary care through physician groups, primary health care centers and hospital outpatient centers. To obtain these funds, grantees will be required to (1) provide services twenty four hours a day, seven days a week; (2) offer referral services fore inpatient care and specialty services; (3) provide for follow up care, and access to lab, pharmacy, radiology and other ancillary services; (4) establish linkages with WIC and child nutrition programs; (5) accept Medicare, Medicaid and uninsured patients without limits; (6) publicize the availability of sliding scale services; (7) establish quality assurance mechanisms; and (8) ensure community input into the design and provision of health care services.

F. Other Programs

The state administers a number of additional programs that provide assistance to low income individuals. State law establishes a program of care and treatment for individuals suffering from hemophilia to assist people who need continuing treatment but are unable to pay for the full cost of such services. Funds must be made available without regard to race or age.¹⁵ State law directs the Department of Health and Human Resources to provide services to individuals over the age of 21 who suffer from cystic fibrosis, to the same extent that the same services are available to children under the age of 21 under federally funded children's services programs.¹⁶ The program is contingent on the availability of appropriations. Louisiana also funds services for individuals with chronic renal disease who do not qualify for or receive other federal or state funded health care and who have adjusted gross

¹³40 La. Rev. Stat. § 2195. To the extent one hundred percent federal funding can be obtained, state law also proposes the creation of a rural health clinic authority, which would provide additional health care services. 40 La. Rev. Stat. § 2198.6.

¹⁴40 La. Rev. Stat. §2196 *et seq.*

¹⁵40 La. Rev. Stat. §1299.5.

¹⁶40 La. Rev. Stat. § 1299.119.

incomes of less than \$30,000 if single and less than \$40,000 if married.¹⁷

State law directs the Department of Health and Hospitals to establish a program for the prevention, screening, diagnosis and treatment of lead poisoning.¹⁸ To the extent of available appropriations, the department must make available screening, diagnosis and treatment to children under the age of six and to other persons deemed to be at risk for lead poisoning. The department is charged with developing and early detection program that tests all children in dwellings found to have lead paint.

In addition, local school boards are charged with administering annual vision and hearing tests for all schoolchildren.¹⁹

II. State Efforts to Extend Coverage for the Indigent and Uninsured

A. Medicaid Buy-In Program

As part of the Louisiana Access to better Care Medicaid Insurance Demonstration Project, the legislature has proposed that the state implement a Medicaid buy-in plan that would allow low income individuals to purchase Medicaid coverage on a sliding scale based upon their ability to pay.²⁰ This program has never been implemented.

III. State Requirements for Private Care for the Indigent

All general hospitals that (1) are licensed by the state; (2) receive assistance through state funds or through tax exempt bonds; and (3) offer emergency services must make such services available to all residents of the hospital's service area regardless of insurance status or source of payment.²¹ Emergency services may not be denied by such hospitals based upon inability to pay.

In a recent decision construing this statute, the Louisiana Supreme Court absolved a hospital from liability for the death of a patient denied admission to an emergency room after the attending physician refused to waive a \$400 deposit required for admission to the hospital.²² The court found that the hospital had complied with this statute by granting the physician authority to waive the fee in case of emergencies and that the hospital was not liable for any negligence on the part of the physician due to his status as an independent contractor.

¹⁷40 La. Rev. Stat. § 1300.84

¹⁸40 La. Rev. Stat. § 1299.21

¹⁹17 La. Rev. Stat. § 2112.

²⁰46 La. Rev. Stat. § 160.9.

²¹40 La. Rev. Stat. § 2113.4.

²²Tabor v. Doctor's Memorial Hospital, 503 S.2d 233, 39-40 (La. 1990).