

South Carolina

Constitutional Provisions

South Carolina's Constitution does not oblige state or local governments to meet the medical needs of indigent state residents. However, it does require that the General Assembly create agencies which address the health, welfare and safety needs of the public.¹

Statutory Provisions

State Obligations

I. General Relief - disability assistance

The State Department of Social Services ("DSS") is required to give cash assistance to those individuals who are without subsistence due to physical or mental infirmities, or upon whom aged, blind, or disabled persons receiving other public assistance depend.² Successful applicants will have insufficient income or resources to meet life's necessities, and will not have relatives to whom they can turn who are legally obligated for the applicants' support.³

The amount dispensed shall be within state appropriations, but taking into account applicants' income and resources must be sufficient to provide a "reasonable subsistence compatible with decency and health."⁴ Thus, this statute provides that grants provided under this program must meet people's needs, but only to the extent that appropriated funds are available.

The statutes defining this program, however, do not answer the question of whether payments for necessary medical services shall be provided to eligible beneficiaries. The Disability Assistance program, described in the state regulations promulgated by the Department of Social Services, answers this question, in part.

General Disability Assistance

General Disability Assistance ("GDA") is a state-funded program that provides between one and six months of financial and medical assistance to eligible South Carolina citizens between the ages of 18 and 65, who are totally but temporarily disabled, and are otherwise ineligible⁵ for any other public

¹S.C. Const., Art. XII, § 1 [Law Co-op. 1977].

²S.C. Code Ann. §§ 43-5-310, 43-5-320 [Law Co-op. 1985].

³S.C. Code Ann. §§ 43-5-310, 43-5-320 [Law Co-op. 1985].

⁴S.C. Code Ann. § 43-5-350 [Law Co-op. 1985].

⁵Exception: SSI general assistance benefits given to ineligible spouses.

assistance program.⁶

Financial eligibility requirements are stringent. Successful applicants (1) have no income, (2) do not have cash reserves that are greater than or equal to twice the maximum GDA payment, and (3) do not possess any resources other than a homestead, a \$1500 insurance policy, and one transportation motor vehicle.⁷

GDA eligibility may not extend beyond six months for any one diagnosis, but a new and different diagnosis may qualify an individual for a new grant period.⁸ All GDA recipients must be referred to the State Vocational Rehabilitation Department, and must accept all available Vocational Rehabilitation services and resources.⁹ A disability is defined as a serious mental or physical impairment (excluding pregnancy), or combination of impairments, which renders an individual incapable of engaging in any useful occupation or gainful employment within his or her competence.¹⁰ A temporary disability is defined as an impairment which is expected to last, or has lasted, at least one month but no more than six.¹¹

Individuals eligible for GDA cash assistance shall be eligible for State Medical Assistance (Medicaid) beginning on the first day of the month in which the applicant is certified for GDA payments.¹² The regulations are silent on the question of whether the date of certification relates back to the day/month of application. Since this program does not provide for benefits retroactively, the definition of certification may be important¹³

The scope and duration of benefits available under this program is uncertain. Adequate subsistence services need be provided under this program, but only to the extent that funds have been appropriated and are available.¹⁴ However, to the extent that a person is enrolled within the Medicaid program, the scope and duration of benefits available therein, unless otherwise indicated, would probably apply.

⁶S.C. Code Ann. Regs. §§ 114-1510, 114-1520 [1992].

⁷S.C. Code Ann. Regs. § 114-1520 [1992].

⁸*Id.*

⁹*Id.*

¹⁰S.C. Code Ann. Regs. § 114-1510(A) [1992].

¹¹S.C. Code Ann. Regs. § 114-1520(D) [1992].

¹² S.C.R. § 114-1520(M) [1992].

¹³*Id.*

¹⁴S.C. Code Ann. Regs. § 114-1520(M) [1992].

II. Medically Indigent Assistance Program (MIAP)

This program requires counties to pay for part of the costs of inpatient medical care which shall be provided under the State's Medical Assistance program to qualified indigents. The Department of Health and Human Services ("Department") is responsible for administering the State's Medically Indigent Assistance Program ("MIAP").¹⁵ MIAP is a program of last resort, providing inpatient care to eligible persons for whom the hospital would otherwise not be reimbursed.¹⁶

Within the scope of their abilities and licensure, General hospitals¹⁷ ("hospitals") are required to provide necessary treatment to patients sponsored by this program.¹⁸ Hospitals must inform patients of the existence of the MIAP and must refer the patient for an application if it is determined that the patient has no means to pay for hospital services.¹⁹

Prior to a non-emergency admissions, the patient shall be referred to designated county offices for a determination of his or her eligibility. The county shall notify the patient and the admitting hospital or physician of the outcome of the eligibility determination.²⁰

Hospitals are required to admit, within the scope of their abilities and licensure, patients in need of emergency services, whether or not it is clear that they would be eligible for benefits under this program.²¹ In emergency admissions, the hospital shall admit the patient and obtain a signed application from the applicant, his or her relative or other individual authorized to act on his or her behalf. The hospital shall collect information pertaining to the individual's eligibility, and shall forward the information to the county eligibility office for processing. The county shall notify the patient and the hospital of the outcome of the eligibility determination.²²

Within the limits of the Department's budget, retroactive applications will be accepted if filed

¹⁵S.C. Code Ann. § 44-6-150 [Law Co-op. 1996 Supplement].

¹⁶S.C. Code Ann. § 44-6-150(A) [Law Co-op. 1996 Supplement].

¹⁷"General hospital" means any hospital licensed as a general hospital by the South Carolina Department of Health and Environmental Control." S.C.R. § 126-500(E) [1992].

¹⁸S.C. Code Ann. § 44-6-150(A) [Law Co-op. 1996 Supplement].

¹⁹S.C.R. § 126-505(C) [So. Carolina 1992].

²⁰S.C. Code Ann. § 44-6-150(C)(1)(a) [Law Co-op. 1996 Supplement]; S.C. Code Ann. Regs. § 126-510(A) [1992].

²¹S.C. Code Ann. § 44-6-150(C)(1)(b) [Law Co-op. 1996 Supplement].

²²S.C. Code Ann. § 44-6-150(C)(1)(b) [Law Co-op. 1996 Supplement]; S.C. Code Ann. Regs. § 126-510(B) [1992].

within one year of discharge.²³

A. Eligibility

Eligibility for MIAP services is restricted to a particular admission. That is, eligibility is episodic for a given spell of illness.²⁴ An eligible applicant (1) is a South Carolina resident, including migrant workers without other domiciles, (2) is either a United States citizen, an alien admitted for permanent residence, or an alien permanently residing in the United States under color of law (“PRUCOLs”), (3) has a family income which does not exceed 100 percent of the federal poverty level (“FPL”), and, (4) has exhausted all other potential sources of payment.²⁵ Otherwise eligible applicants whose family income are between 100 and 200 percent of the FPL may also be eligible for partial benefits.²⁶

In addition to inpatient medical services, inpatient mental health services may be paid for by the MIAP if the admitting physician believes that due to mental illness the patient is likely, if not immediately hospitalized, to cause serious harm to himself or others.²⁷

B. Financing

MIAP is primarily financed through county assessments and hospital taxes.²⁸

III. Hospitals

A. County-Municipal Hospitals

A county or municipality may elect to construct and maintain a public hospital within its jurisdiction.²⁹ Such a public hospital may be financed through bond issues, local taxes, donations, or fees³⁰. Only those patients who are financially able shall be held to pay for services rendered.³¹

²³S.C. Code Ann. Regs. § 126-510(E) [1992].

²⁴S.C.A. § 44-6-150(C)(2) [Law Co-op. 1996 Supplement]; S.C.R. § 126-510(C) [1992].

²⁵S.C. Code Ann. Regs. §§ 126-515, 520, 535(B) [So. Carolina 1992].

²⁶S.C.R. § 126-520 [So. Carolina 1992]. *See* resource requirements under S.C.R. § 126-520.

²⁷S.C. Code Ann. Regs. § 126-530.

²⁸S.C.A. § 44-6-146 [Law Co-op. 1996 Supplement].

²⁹S.C. Code Ann. § 44-7-610 [Law Co-op. 1985].

³⁰S.C.A. §§ 44-7-630 to 660 [Law Co-op. 1985].

³¹S.C. Code Ann. § 44-7-760 [Law Co-op. 1985].

B. Emergency Hospital Care

Every General hospital must be properly equipped to provide emergency life-saving procedures, and must render such care when needed.³² No person, regardless of his or her ability to pay, residence, or payor, may be denied emergency service if a hospital's medical staff member or, in case of a transfer, a member of the accepting hospital's medical staff, determines that the person is in need of emergency care.³³ Violations of this provision may result in a civil penalties of up to ten thousand dollars per occurrence.³⁴

"Emergency care" means treatment that is usually and customarily available at the respective hospital, and is provided (1) to sustain a person's life, (2) to prevent serious permanent disfigurement, loss or impairment of the function of a bodily member or organ, or (3) for the care of a woman in active labor.³⁵

V. State & Local Health Departments

The Department of Health and Environmental Control has plenary power over traditional public health activities.³⁶ The Department may provide direct medical care, both at its facilities and at patients' homes, and may charge for these services so long as it takes the patient's ability to pay into account, and does not deny available services to patients solely because the patient is unable to pay.³⁷ Further, the Department shall not charge anyone for services which it deems necessary to the assurance and promotion of public health.³⁸

VI. Medical Services for the Blind

The South Carolina Commission for the Blind shall receive and spend federal, state and private funds for examining and treating, medically or surgically, persons with a corrected visual acuity of no better than 20/200, or persons with progressive pathological conditions which within twenty-four months

³²S.C. Code Ann. Regs. § 61-16-613.1 [So. Carolina 1992].

³³S.C. Code Ann. § 44-7-260(E) [Law Co-op. 1996 Supplement]; S.C. Code Ann. Regs. §§ 61-16-309, 61-16-613.2 [1992].

³⁴S.C. Code Ann. § 44-7-260(E) [Law Co-op. 1996 Supplement].

³⁵S.C. Code Ann. § 44-7-260(E) [Law Co-op. 1996 Supplement].

³⁶S.C. Code Ann. § 44-1-110 [Law Co-op. 1985].

³⁷S.C. Code Ann. §§ 44-1-180, 44-1-190, 44-1-230 [Law Co-op. 1985].

³⁸S.C. Code Ann. § 44-1-190 [Law Co-op. 1985].

will result in a corrected visual acuity of no better than 20/200.³⁹

Other than diagnostic eligibility requirements, there is no indication that an applicant need also meet income and/or resource limitations criteria. It is unclear whether those individuals in need of services have a right to receive the treatment without charge, on a sliding-fee scale, or otherwise. Further, although the Commission is authorized to spend state, federal and private funds, there is no indication that the state is required to provide sufficient funds to meet the cost of providing care to all those individuals in need.

VII. Vocational Rehabilitation

The Vocational Rehabilitation Act of South Carolina⁴⁰ entitles financially needy⁴¹ persons with disabilities which substantially prevent them from being employed, to such vocational, medical, and surgical services as reasonably expected would sufficiently ameliorate the effects of the disability to the point that the applicants would be able to work.⁴²

³⁹S.C. Code Ann. §§ 43-25-10 to 43-25-30 [Law Co-op. 1985].

⁴⁰1962 Code § 71-271; 1957 (50) 114 [S.C. Code Ann. § 43-31-10 (Law Co-op. 1985)].

⁴¹The statute is silent as to how one determines who is “financially needy,” except that the calculating process must take into account the costs of the medical services needed by the patient. S.C. Code Ann. § 43-31-30 [Law Co-op. 1985].

⁴²S.C. Code Ann. §§ 43-31-10 to 150 [Law Co-op. 1985].