

Ohio

General Obligation

Although Ohio has several programs which serve certain segments of the low-income population under specified conditions, neither these nor any other health care program for the indigent are required by general principles enunciated by either the state's constitution or its statutes. In fact, the state statutes do not speak to the general purposes or duties of the state, counties, municipalities, and social services agencies with respect to providing medical services low-income populations. Rather, programs are authorized and described, thus limiting the government's obligations to provide health care to indigents to such programs the legislature specifically defines.

County/Municipal Tuberculosis Treatment Hospitals and Clinics

Any county with a population count of at least 50,000 may, with the department of health's consent, purchase land, erect, equip, maintain and operate hospitals for the care of persons with Tuberculosis.¹ Alternatively, up to five contiguous counties may pool their resources to erect and maintain a T.B. hospital.² A T.B. hospital's board of trustees may establish and maintain, with the department of health's consent, T.B. clinics.³

County/Municipal Public Hospitals and Clinics

County boards of commissioners may contract with non-profit corporations for the purpose of maintaining and operating hospitals for the care of indigents.⁴ The state director of health shall make available financial assistance for the treatment of TB patients to counties operating an approved TB program.⁵

¹Ohio Rev. Code Ann 339.13 (Baldwin 1994).

²Ohio Rev. Code Ann. 339.21 (Baldwin 1994).

³Ohio Rev. Code Ann. 339.36, 339.36 (Baldwin 1994).

⁴Ohio Rev. Code Ann. 339.11 (Baldwin 1994).

⁵Page's Ohio Rev. Code Ann 339.43 (Anderson 1996 Supp).

Hospital Care Assurance Program

Overview

State residents⁶ who are general assistance⁷ or disability assistance⁸ beneficiaries, or whose family incomes are at or below 100 percent of the federal poverty level,⁹ who are not eligible for Medicaid, are eligible for free-of-charge care at specified hospitals¹⁰ for such inpatient and outpatient services available under the Ohio's Medicaid program,¹¹ with the exception of transplantation services and services associated with transplantation.¹²

Obligations of Hospitals

All Disproportionate Care Hospitals Must Participate

All hospitals¹³ which receive funds under the state's disproportionate share hospital ("DSH") program are required to participate in this program, and to render basic, medically necessary hospital level services (defined above as most Medicaid benefits) to all eligible persons in need of care who present themselves at participating hospitals.¹⁴

⁶"Residency" *defined as* voluntarily living in Ohio with the intent to remain and not receiving public assistance in another state. OAC 5101:3-2-0717 [Banks-Baldwin 1996].

⁷The General Assistance program (Ohio Rev. Code Ann. 5113.01 through 5113.99) was a county administered, state-county funded program providing a wide scope of medical services to eligible residents. The program was repealed, effective July 17, 1995, but is listed as an eligibility category under the hospital care assurance program. Ohio Rev. Code Ann. 5113.01 *et seq.* [Baldwin 1997 Supp].

⁸Page's Ohio Rev. Code Ann. 5115.01 *et seq.* [1996 and 1997 Supp].

⁹Federal poverty level guidelines *defined at* 42 U.S.C. 9902.

¹⁰"Specified" hospitals are non-federal hospitals licensed per Ohio Rev. Code Ann. 3701.07 as general medical, surgical or pediatric hospitals, which provide inpatient services, *as defined in* 42 C.F.R. 440.10, which are recipients of state disproportionate share ("DSH") hospital funds [*discussed further below*]. Ohio Rev. Code Ann. 5112.01(A)(1)(a), 5112.17(B) [Baldwin 1997 Supp].

¹¹OAC 5101:3-2-02 (Banks-Baldwin 1996).

¹²Ohio Rev. Code Ann. 5112.17 (Baldwin 1997 Supp), OAC 5101:3-2-0717 (B) [Banks-Baldwin 1996].

¹³DSH hospitals are any hospitals fitting the federal definition found under 42 U.S.C. 1396r-4b, as amended, as well as any other hospital Ohio determines appropriate. RC 5112.03 (Baldwin 1997 Supp.).

¹⁴Ohio Rev. Code Ann. 5112.17 (Baldwin 1997 Supp), OAC 5101:3-2-0717 (1996).

Participating Hospitals Must Post Notices

DSH hospitals must post notices in appropriate areas of their facilities, including but not necessarily limited to the admissions areas, the business offices, and the emergency room.¹⁵ The notices must specify the rights of persons with incomes at or below the federal poverty line to receive, without charge to the individual, basic, medically necessary hospital-level services at the hospital.¹⁶

Posted notices must contain the following in order to comply with state regulations: (1) at a minimum, the posted notices must specify the rights of these individuals to receive without charge, basic, medically necessary hospital-level services; (2) the wording of the posted notice must be clear and in simple terms understandable by the population serviced; (3) the posted notice must be printed in English *and* other major languages that are common to the population of the area serviced; (4) the posted notice must be clearly legible at a distance of twenty feet, or the expected vantage point of the patrons; (5) the facility must make reasonable efforts to communicate the contents of the posted notice to persons it has reason to believe cannot read the notice.¹⁷

Program Funded Largely by Federal Dollars Leveraged by Provider Taxes

This program is funded by federal DSH payments and hospital taxes. The DSH program is funded from a pool composed of the following:¹⁸ (1) the revenue from a uniform assessment (not to exceed two percent¹⁹) which is imposed on all non-governmental hospitals;^{20,21,22} (2) intergovernmental transfers made by governmental hospitals,²³ and; (5) a payment from the federal government approximately equal to that

¹⁵OAC 5101:3-2-0717(D).

¹⁶OAC 5101:3-2-0717(D) [Baldwin 1996].

¹⁷OAC 5101-3-2-0717(D) [Baldwin 1996].

¹⁸RC 5112.18 [Baldwin 1997 Supp.].

¹⁹RC 5112.06(B) [Baldwin 1997 Supp].

²⁰A “governmental” hospital is a county or state owned and operated hospital which has 500 or more registered beds. RC 5112.01(D) [Baldwin Supp 1997].

²¹The assessment is made on the hospital’s total costs (not counting skilled nursing facility costs). In 1996, just under two percent (.01803) was the assessment amount. OAC 5101:3-2-08(D) [Banks-Baldwin 1996].

²²This hospital “assessment” methodology applies only so long as the Health Care Financing Administration (“HCFA”) finds that the assessment is a permissible health care related tax pursuant to 42 U.S.C. 1396b(w), as amended. RC 5112.05 [Baldwin Supp 1997].

²³“Intergovernmental transfers” are fund transfers which the state may require governmental hospitals to make to the DSH fund (subject to the federal limitations on the aggregated amount of DSH funds prescribed by 42 U.S.C. 1396r-4(f)(2)(A), as amended). RC 5112.07 [Baldwin 1997 Supp].

which this pooled fund pays out to DSH hospitals for indigent care.²⁴

DSH Payments to Hospitals

The amount paid out to hospitals in DSH money is designed to substantially meet the hospitals' costs of rendering services to beneficiaries of this program.²⁵ Based on financial reports which hospitals are supposed to file, the amount of DSH appropriations is calculated, taking into account the degree to which the various ways which the hospital has been providing to low-income patients.²⁶

Disability Assistance Program²⁷

Overview

Disability assistance ("DA") is a state and county funded program which provides cash and/or medical assistance to persons ineligible for public assistance programs which are supported in whole or in part by federal funds (e.g., Aid to Dependent Children, Supplemental Security Income).²⁸ The DA program provides eligible individuals sufficient assistance to maintain health and meet basic needs.²⁹ No federal regulations govern the administration of the DA program; the legal basis for the administration of this program is the Ohio Revised Code and the Ohio Administrative Code.³⁰

The DA program has two discrete parts, cash assistance and medical assistance. DA cash assistance provides cash benefits to those individuals who meet program requirements and are determined eligible due to age, pregnancy, residency in a treatment center certified by the Ohio Department of Alcohol and Drug Addiction Services (ODADAS), or a physical or mental disability³¹.

DA medical assistance provides medical benefits for individuals eligible for DA cash assistance and individuals who have been determined by a licensed physician to be medication dependent, but who meet no other category of disability.³²

²⁴RC 5112.18(B) [Baldwin 1997 Supp].

²⁵RC 5112.06(B)(1) [Baldwin 1997 Supp].

²⁶OAC 5101:3-2-09 [Banks-Baldwin 1996], RC 5112.08 [Baldwin 1997 Supp].

²⁷RC 5115.01 et seq. [Baldwin's 1997 Supp]; OAC 5101:1-5 [Banks-Baldwin 1996].

²⁸OAC 5101:1-5-01(A) [Banks-Baldwin 1996].

²⁹*Id.*

³⁰OAC 5101:1-5-01 (Banks-Baldwin 1996); RC 5115.01, 02, 05 [Baldwin 1996].

³¹OAC 5101:1-5-01(C) [Banks-Baldwin 1996].

³²OAC 5101:1-5-01(D) [Banks-Baldwin 1996].

Categorical Eligibility Requirements for DA Cash Assistance³³

Applicants must be ineligible for federal categorical programs (e.g. AFDC, SSI), and must be either: (1) under the age of eighteen; (2) 60 years of age or more; (3) pregnant; (4) residents of residential treatment centers certified by the Ohio department of alcohol and drug addiction services, or; (5) certified as disabled by the county medical services section under SSI guidelines.³⁴

Categorical Eligibility Requirements for DA Medical Assistance

Applicants must be ineligible for federal categorical program assistance, and must be either eligible for DA cash assistance, or determined by a licensed physician in accordance as medication dependent.³⁵ An individual is determined to be medication dependent when a licensed physician has certified that the person is under ongoing treatment for a chronic medical condition requiring continuous prescription medication for a long-term, indefinite period of time and for whom the loss of such medication would result in a significant risk of a medical emergency and loss of employability which will last for at least nine months.³⁶

Ineligible Individuals

Employable

An applicant must not be underemployed or unemployed for reasons within his or her control. Unemployment resulting from a labor dispute is not considered within the applicant's control.³⁷ A DA applicant who has quit or refused employment or training within the past thirty days without good cause shall be determined ineligible for cash and/or medical benefits under this program until that thirty-day period has expired.³⁸

Cooperation in Obtaining/Maintaining Other Governmental Forms of Support

Applicants' whose actions, or inactions constituting non-compliance, which result in either the failure to

³³As a first step in determining eligibility, consult code sections 5101:1-5-05 and 06 in order to determine who is included in the family unit whose income and expenses shall be deemed relevant to the determination of eligibility. The rules in these sections do not necessarily follow the rules generally relevant in the determination of either Medicaid or SSI eligibility.

³⁴OAC 5101:1-5-07(A), (B); 5105:1-5-21 [Banks-Baldwin 1996].

³⁵OAC 5101:1-5-07(F) [Banks-Baldwin 1996].

³⁶OAC 5101:1-5-19 [Banks-Baldwin 1996].

³⁷OAC 5101:1-5-09, 15 [Banks-Baldwin 1996].

³⁸OAC 5101:5-09(A)(1) [Banks-Baldwin 1996].

qualify for, or failure to maintain eligibility, for medical support (Medicaid), Supplemental Security Income (SSI), or Aid to Families with Dependent Children (AFDC), are ineligible for assistance under this program.³⁹

Citizenship/Alienage/Residency

An undocumented alien is ineligible for benefits under this program.^{40,41} Further, only residents are eligible under this program.⁴² A resident is an individual must be physically present within the state, and must have the intention to reside therein.⁴³ Applicants for assistance must apply for and receive assistance from the county in which they reside.⁴⁴

Eligibility: Income and Resources

In addition to the eligibility criteria described above, applicants must also qualify on the basis of having quite limited income and resources.⁴⁵ Various rules determine how resources and income shall be evaluated with respect to determining eligibility.⁴⁶ In short, financial eligibility is determined by subtracting the family group's monthly countable income (i.e., gross monthly earned income less earned income disregards, plus all nonexempt monthly unearned income) from the DA standard which represents the family group size.⁴⁷ If, and only if, the applicant qualifies for some DA assistance, then various other deductions and add-ons will likely augment the actual cash assistance which the applicant will be able to receive.⁴⁸ Unfortunately, the DA payment standard which the relevant family unit's income must be under in order to qualify for benefits is quite stringent. In 1996, the income limit for a family unit of one was \$115, the limit for a family unit of two was \$159, and the limit for a family unit of three was \$193.⁴⁹

³⁹OAC 5101:5-09(A)(2), (4), (6) [Banks-Baldwin 1996].

⁴⁰OAC 5101:5-09(A)(3) [Banks-Baldwin 1996].

⁴¹*See, generally* OAC 5101:1-1-55, 56, 57 for the required procedure by which an alien can prove eligibility.

⁴²OAC 5101:1-5-12 [Banks-Baldwin 1996].

⁴³*Id.*

⁴⁴*Id.*

⁴⁵OAC 5101:1-5-30 [Banks-Baldwin 1996].

⁴⁶OAC OAC 5101:1-5-30, 40, 41, 42, 43, 44, 45 [Banks-Baldwin 1996].

⁴⁷OAC 5101:1-5-45(E)(2) [Banks-Baldwin 1996].

⁴⁸OAC 5101:1-5-45(F) [Banks-Baldwin 1996].

⁴⁹OAC 5101:1-5-10(E) [Banks-Baldwin 1996].

Medical Benefits

The DA medical assistance program consists of managed primary care.⁵⁰ The department of human services has the authority to determine the maximum authorized amount, scope, duration, or limit of payment for services.⁵¹ There is no requirement that benefits under this program be comparable to that which is available under the Medicaid program. Services available under this program are: (1) up to twelve physician visits during a six-month period (such visits shall occur in an office, home, clinic, emergency room, or any other non-inpatient setting);⁵² (2) one inpatient physician visit per day, not to exceed twelve in any six-month period;⁵³ (3) limited medical supplies;⁵⁴ (4) laboratory and radiology services and prescription benefits to the extent one would be eligible for them under the Medicaid program,⁵⁵ and; (5) dental extractions.⁵⁶ DA beneficiaries are automatically eligible for services available under the Hospital Assurance Program.⁵⁷

The limit on inpatient physician visits may no longer be applicable, now that the Hospital Care Assurance Program is active. DA beneficiaries are automatically eligible for services under the Hospital Care Assurance Program (“HCAP”).⁵⁸ The HCAP provides a scope and duration of services comparable to that which is available under the state’s Medicaid program.⁵⁹ Since there is no indication that the inpatient physician restriction supplants rules governing the Medicaid program, it would seem that the broader service definition under the HCAP applies.

Hospital Motor Vehicle Claims Program

Overview

The Hospital Motor Vehicle Claims Program (“HMVCP”), funded by a fuel tax, pays for inpatient non-profit hospital services rendered to those individuals who are unable to afford the costs of their treatment.

⁵⁰Page’s Ohio Rev. Code 5115.10(A)(1) [Anderson 1996].

⁵¹*Id.*

⁵²OAC 5101:3-23-031(B)(1) [Banks-Baldwin 1996].

⁵³OAC 5101:3-23-031(B)(3) [Banks-Baldwin 1996].

⁵⁴OAC 5101:3-23-031(B)(6) [Banks-Baldwin 1996].

⁵⁵OAC 5101:3-23-031(B)(5), (7) [Banks-Baldwin 1996].

⁵⁶OAC 5101:3-23-031(B)(8) [Banks-Baldwin 1996].

⁵⁷OAC 5101:3-23-031(B)(4) [Banks-Baldwin 1996].

⁵⁸OAC 5101:3-23-031(4) [Banks-Baldwin 1996]; RC 5112.17 [Baldwin 1997 Supp]

⁵⁹OAC 5101:3-2-02 (Banks-Baldwin 1996).

Eligibility

Indigent persons injured indirectly or directly by motor vehicle accidents, may be eligible for services under this program.⁶⁰ In order to be eligible under this program an applicant must have suffered an injury in a motor vehicle accident, have had his or her injuries treated as an inpatient within a non-profit hospital, and must not be able to pay the costs of his or her care.

A patient is indigent under this program if, together with persons who could pay on the patient's account, she or he is unable to pay the lesser of the hospital's charges for the patient's care or the hospital's per diem cost multiplied by the number of days of inpatient care provided to the patient. Persons who could pay on the patient's account include, but are not limited to the patient's relative, guardian, executor or trustee legally responsible for the patient's medical care, and any third-party or governmental medical coverage.⁶¹

A person is considered able to pay, and thus not indigent, if she willingly enters into and honors a reasonable⁶² repayment agreement.⁶³ A person shall not be considered able to pay if another person may be liable for the expenses of the patient's care but an action to recover the expenses has not been filed.⁶⁴ The director of the department of health may deem a person unable to pay if an action for recovery of amounts including the patient's care has been filed but has not yet been determined.⁶⁵

Program Benefits

Eligible applicants shall receive inpatient care provided by a non-profit hospital.⁶⁶ Inpatient care is defined as not including clinic, outpatient or emergency room care provided to a patient who is not admitted to the hospital, or any professional fees associated with the provision of any care, inpatient or otherwise, to the patient.⁶⁷ The exclusion of professional fees is a significant drawback. Apart from such physicians as interns, residents, pathologists and radiologists, most physicians rendering care in hospital facilities bill separately for their services. Thus, a person injured in a motor vehicle accident admitted for

⁶⁰Page's Rev. Ohio Code 3701.61(A) [Anderson 1997]; OAC 3701-62-01(C) [Banks-Baldwin 1994].

⁶¹OAC 3701-62-02 [Banks-Baldwin 1994].

⁶²What is reasonable is a question for the director of the department of health. OAC 3701-62-02(D) [Banks-Baldwin 1994].

⁶³OAC 3701-62-02(D) [Banks-Baldwin 1994].

⁶⁴OAC 3701-62-02(E) [Banks-Baldwin 1994].

⁶⁵*Id.*

⁶⁶OAC 3701-62-01[Banks-Baldwin 1994].

⁶⁷OAC 3701-62-01(G) [Banks-Baldwin 1994].

surgical reconstruction would still have to pay for such services as those of the surgeon and the anesthesiologist.

Hospital Compensation

Before and after the filing of a claim for reimbursement through the H MVCP, the claimant hospital shall make a diligent effort to collect the amount claimed from all persons legally responsible for the patient's care.⁶⁸ If the hospital's efforts are unsuccessful, then the state may reimburse it for the lesser of the actual charges billed for the patient's care or the claimant hospital's per diem cost multiplied by the number of days of inpatient care provided to the patient, less any amount paid on the patient's account by any other source.⁶⁹ The per-diem rate is based on an average of hospitals' historical inpatient costs.⁷⁰ This figure is derived by the director of the department of health pursuant to a formula which is in part based on Medicare cost reporting required by the Health Care Financing Administration.⁷¹

Relationship To the Hospital Care Assurance Program

Hospitals which receive disproportionate share hospital funds are obligated under the provisions of the Hospital Care Assurance Program to provide basic medically necessary hospital services to state residents whose incomes are at or below the federal poverty level, and who are not otherwise eligible for Medicaid.⁷² The H MVCP defines indigence differently. A person is considered indigent, and thus eligible for service under the H MVCP if she or he is simply unable to pay for the costs of his or her care.⁷³

Since it is quite possible that a person could be unable to afford the costs of hospitalization despite having income above the federal poverty line, it is likely that there will be individuals qualifying for care under this program. The financial consequences to hospitals between the two programs is distinct. While a DSH hospital rendering care to an eligible Hospital Care Assurance Program patient would not be reimbursed,⁷⁴ if the patient were eligible for services under H MVCP it would indeed be reimbursed.⁷⁵

Program Funding

⁶⁸OAC 3701-62-07(A) [Banks-Baldwin 1994].

⁶⁹OAC 3701-62-06(B) [Banks-Baldwin 1994].

⁷⁰OAC 3701-62-05 [Banks-Baldwin 1994].

⁷¹Page's Rev. Ohio Code Ann. 3701.611 [Anderson 1997], OAC 3701-62-05 [Anderson 1994].

⁷²Page's Ohio Rev. Ann. Code 5112.17(B) [Anderson 1996].

⁷³Page's Rev. Ohio Code 3701.61(A) [Anderson 1997]; OAC 3701-62-01(C) [Banks-Baldwin 1994].

⁷⁴RC 5112.17 (Baldwin 1997 Supp), OAC 5101:3-2-0717 (1996).

⁷⁵Page's Ohio Rev. Code 3701.61 through 3701.69 [Anderson 1997]; OAC 3701-62-01 [Banks-Baldwin 1994].

An “Indigent Persons Care Fund” was created in the state legislature. This fund shall be filled by appropriations from motor vehicle fuel tax money credited to the highway operating fund.⁷⁶

⁷⁶Page’s Ohio Rev. Ann. Code 3701.66(B) [Anderson 1997], Page’s Ohio Rev. Ann. Code 5735.291 [Anderson 1996].