

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 549

[BOP-1111-P]

RIN 1120-AB11

#### Inmate Fees for Health Care Services

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes rules describing procedures we will follow for charging inmates fees for certain kinds of health services, as required under the Federal Prisoner Health Care Copayment Act of 2000.

**DATES:** Please send comments by December 9, 2002.

**ADDRESSES:** Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

**SUPPLEMENTARY INFORMATION:** Under the Federal Prisoner Health Care Copayment Act of 2000 (Pub. L. 106-294, October 12, 2000, 114 Stat. 1038), the Bureau of Prisons may assess and collect a fee for health care services provided in connection with certain kinds of inmate health care visits. In this document, we propose rules describing procedures we will follow for charging inmates health service fees for certain kinds of health care services.

#### Who Do These Rules Apply To?

These rules apply to anyone incarcerated in an institution under our jurisdiction and to anyone, as designated by the Director, who has been charged with or convicted of an offense against the United States.

#### What Will This Rule Do?

Through this rule, the Bureau will add a subpart F to its regulations in 28

CFR part 549, on Medical Services. Under these rules, an inmate must pay a \$2.00 fee for health care services if (1) he/she receives services in connection with a visit that he/she requested, except for certain services, or (2) he/she injured an inmate who, as a result of the injury, needs a health care visit.

Under these rules, and under the Federal Prisoner Health Care Copayment Act of 2000, we will not charge fees for health care services based on staff referrals, staff-approved follow-up treatment for a chronic condition, preventative health care services, emergency services, prenatal care, diagnosis or treatment of chronic infectious diseases, mental health care, or substance abuse treatment.

If inmates disagree with a health care service fee that we charge them, they may appeal it through the Bureau's Administrative Remedy Program.

Also, if an inmate is indigent and unable to pay the health care service fee, we will not charge that inmate.

#### Where To Send Comments

You can send written comments on this rule to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

We will consider comments received during the comment period before taking final action. We will try to consider comments received after the end of the comment period. In light of comments received, we may change the rule.

We do not plan to have oral hearings on this rule. All the comments received remain on file for public inspection at the above address.

#### Executive Order 12866

The Office of Management and Budget (OMB) determined that certain rules are part of a category of actions which are not "significant regulatory actions" under section 3(f) of Executive Order 12866. Because this rule falls within that category, OMB did not review it.

#### Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have

sufficient federalism implications for which we would prepare a Federalism Assessment.

#### Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### Plain Language Instructions

We want to make Bureau documents easier to read and understand. If you can suggest how to improve the clarity of these regulations, call or write to Sarah Qureshi at the address or telephone number listed above.

#### List of Subjects in 28 CFR Part 549

Prisoners.

**Kathleen Hawk Sawyer,**  
*Director, Bureau of Prisons.*

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of

Prisons, we propose to amend 28 CFR part 549 as follows.

**SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**

**PART 549—MEDICAL SERVICES**

1. Revise the authority citation for 28 CFR 549 to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4014, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

2. Add a new Subpart F to read as follows:

**Subpart F—Fees for Health Care Services**

- Sec.
- 549.70 Purpose and scope.
- 549.71 Inmates affected.
- 549.72 Services provided without fees.
- 549.73 Appealing the fee.
- 549.74 Inmates without funds.

**§ 549.70 Purpose and scope.**

(a) The Bureau of Prisons (Bureau) may, under certain circumstances, charge you, an inmate under our care and custody, a fee for providing you with health care services.

(b) Generally, if you are an inmate as described in § 549.71, you must pay a fee for health care services of \$2.00 per health care visit if you:

- (1) Receive health care services in connection with a health care visit that you requested, (except for services described in § 549.72); or
- (2) Are found responsible through the Disciplinary Hearing Process to have injured an inmate who, as a result of the injury, requires a health care visit.

**§ 549.71 Inmates affected.**

This subpart applies to:

- (a) Any individual incarcerated in an institution under the Bureau’s jurisdiction; or
- (b) Any other individual, as designated by the Director, who has been charged with or convicted of an offense against the United States.

**§ 549.72 Services provided without fees.**

We will not charge a fee for:

- (a) Health care services based on staff referrals;
- (b) Staff-approved follow-up treatment for a chronic condition;
- (c) Preventive health care services;
- (d) Emergency services;
- (e) Prenatal care;
- (f) Diagnosis or treatment of chronic infectious diseases;
- (g) Mental health care; or
- (g) Mental health care; or

(h) Substance abuse treatment.

**§ 549.73 Appealing the fee.**

You may seek review through the Bureau’s Administrative Remedy Program (see 28 CFR part 542) if you disagree with either the fee charge or the amount.

**§ 549.74 Inmates without funds.**

You will not be charged a health care service fee if you are considered indigent and unable to pay the health care service fee. The Warden may establish rules and processes to prevent abuses of this provision.

[FR Doc. 02–25850 Filed 10–9–02; 8:45 am]

**BILLING CODE 4410–05–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 372**

[OEI–2002–0010; FRL–6724–4]

**Overburden Exemption; Toxic Chemical Release Reporting; Community Right-to-Know; Administrative Procedure Act**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Denial of petition.

**SUMMARY:** EPA is denying an Administrative Procedure Act (APA) petition to modify its definition of “overburden” to include both consolidated and unconsolidated material. Currently, unconsolidated material is eligible for the overburden exemption to reporting required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). Specifically, EPA is denying this petition because EPA’s review of the petition and available information resulted in the conclusion that consolidated rock includes materials that often contain toxic chemicals above negligible amounts, often in significant quantities.

**FOR FURTHER INFORMATION CONTACT:** Peter South, Petition Manager, U.S. Environmental Protection Agency, Mail Code 2844T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, 202–566–0745, e-mail: *south.peter@epa.gov*. For specific information on this document, or for more information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, U.S. Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672. Information concerning this notice is also available on EPA’s Web site at *http://www.epa.gov/tri*.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

This notice does not make any changes to existing regulations. However, you may be affected by this notice if you are a metal mining facility, or a facility that carries out metal mining activities. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of potentially interested entities
Industry .....	Metal mining facilities that remove and manage overburden and waste rock to access target ore; SIC major group codes 10 (except 1011, 1081, and 1094).
Federal Government.	Federal facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372, subpart B of Title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. How Can I Get Copies Of This Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OEI–2002–0010.

The public docket includes information considered by EPA in developing this action, including the documents listed below, which are physically located in the docket. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not physically located in the docket, please consult the person listed in the