

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Rhode Island Department of Corrections

RULE IDENTIFIER: ERLID 4934

REGULATION TITLE: Medical Co-Payment Fee Schedule

RULEMAKING ACTION: Notice of Proposed Rulemaking

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public Notice Date: May 1, 2018

End of Public Comment Period: May 31, 2018

SUMMARY OF PROPOSED RULE:

Pursuant to the update of R.I. Gen. Laws §42-35, Administrative Procedures, the Rhode Island Department of Corrections (RIDOC) no longer meets the criteria for having to carry out the public hearing process and filing requirements administered by the Administrative Procedures Act (APA) for several of its rules currently filed with the Secretary of State's Office. RIDOC is hereby repealing this rule. The fees found in ERLID 4934 are now included in the proposed adoption of 240-RICR-50-00-1, Fees. This document has not been changed and is available on our website,

<http://www.doc.ri.gov/administration/policy/index.php>.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **May 31, 2018** to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Chief of Program Development/Policy Unit
Maximum Security Administration Wing, 1st floor
1375 Pontiac Avenue
Cranston, RI 02920

Email Address: doc.policy@doc.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: Maximum Security Administration Wing, 1st floor
1375 Pontiac Avenue
Cranston, RI 02920

PUBLIC HEARING INFORMATION:

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

FOR FURTHER INFORMATION CONTACT:

Chief of Program Development/Policy Unit
Maximum Security Administration Wing, 1st floor
1375 Pontiac Avenue
Cranston, RI 02920
(401) 462-3533

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

The repeal of this regulation does not impose significant economic impacts on Rhode Island. The regulation does not alter the status quo in any way; therefore, the post-action state of the world is identical for all interested parties.

Authority for This Rulemaking:

R.I. Gen. Laws § 42-56-10(22), Powers of the director; R.I. Gen. Laws § 42-56-1, Declaration of Policy.

Regulatory Findings:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Amendment:

Rhode Island Department of Corrections proposes to amend **ERLID 4934** as follows:

PROPOSED FINAL VERSION
RIDOC MEDICAL CO-PAYMENT FEE SCHEDULE SUMMARY

This policy pertains to incarcerated ~~sentenced~~ inmates. No inmate is refused medical treatment based upon his/her inability to pay. Under this policy, inmates are provided the same opportunities to receive necessary health care services without regard to their ability to pay for such services.

Inmates are not charged for medical visits to staff physicians that are initiated by RIDOC staff (medical staff/correctional staff) nor are inmates required to pay for on-site follow-up medical visits to staff physicians.

CO-PAYMENT CHARGES

Medical Services

Inmates are charged a \$3.00 co-payment for each inmate initiated visit with RIDOC medical staff, generally referred to as a "sick call visit". The following services are **excluded** from a co-payment requirement:

- a. ~~Emergency services rendered by an emergency room/urgent care center.~~
- b. ~~Initial assessments during the committing and classification processes, entrance physicals, transfer evaluations, and annual physicals for inmates over forty (40) years of age.~~
- c. ~~On site laboratory work, (including inmate requests for HIV testing), EKG and radiological procedures.~~

- d. ~~Immunizations, Tuberculosis (TB) testing, vaccines, and other treatments instituted by RIDOC for public health reasons.~~
- e. ~~Psychological and social work services.~~
- f. ~~Referrals to psychiatrists by health care personnel.~~
- g. ~~Dressing changes and other treatments ordered by health care staff.~~
- h. ~~Medical visits to staff physicians initiated by RIDOC medical/mental health staff and staff scheduled follow-up visits to staff physicians related to an initial problem or chronic condition.~~
- i. ~~Yearly dental cleaning.~~
- j. ~~Prenatal care.~~

Specialty Consultations

~~\$6.00 per visit on-site or off-site, up to a maximum of \$125 per calendar year.~~

- a. ~~On site specialists (ENT, podiatrist, oral surgeon, etc.) — \$6.00 each visit, including follow-up appointments.~~
- b. ~~Off-site specialists — \$6.00 for each outside hospital/clinic trip/office visit, including follow-up appointments.~~

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RIDOC MEDICAL CO-PAYMENT FEE SCHEDULE SUMMARY

NOTE: ~~Inmates are not charged for trips to emergency room/urgent care facilities for emergency treatment.~~

Medical Parole

~~Inmates who have applied for Medical Parole, but were denied for non-medical reasons, are exempt from all co-payment fees.~~

Federal Inmates

~~Federal rules and regulations are used to determine medical co-payment amounts for federal inmates.~~

~~**Medication:**~~

- ~~a. — Inmates are charged \$3.00 for each 30-day supply (or less, depending on prescription) of over the counter medication not available from the inmate commissary.~~
- ~~b. — If an inmate decides not to take his/her medication, he/she must submit a slip to request the doctor discontinue the medication, otherwise a charge will appear on his/her ledger for each month the prescription is valid.~~
- ~~c. — Inmates are not charged for “maintenance” medications for a chronic condition (e.g., Hepatitis C, HIV, hypertension or diabetes).~~

Dental Services:

~~Inmates, including parole violators, are not charged for the initial dental examination performed during the committing and classification processes and a yearly cleaning.~~

~~Inmates are assessed a co-payment on a fee for service basis for both on-site and off-site treatment as noted:~~

- ~~a. — \$3.00 for each dental visit including but not limited to each restoration, extraction, examination, root canal, surgical removal of an impacted tooth, other minor surgery and adjunctive procedure such as occlusal adjustment, denture adjustment, in-house denture repair/reline.~~
- ~~b. — \$6.00 for visits with the oral surgeon either on-site or off-site.~~
- ~~c. — \$70.00 for dentures.~~
- ~~d. — \$35.00 for denture laboratory reline, per arch.~~
- ~~e. — \$35.00 for night guard.~~
- ~~f. — 100% of the replacement cost of any dentures lost, damaged, or destroyed, if dentures are less than two (2) years old, except where it has been determined that RIDOC staff was negligent.*~~

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RIDOC MEDICAL CO-PAYMENT FEE SCHEDULE SUMMARY

Prosthetics:

- a. ~~No co-payment for **initial** prosthetic limbs.~~
- b. ~~No co-payment for initial "essential" mechanical aids, as determined by the Medical Program Director (e.g., hearing aids).~~
- c. ~~50% of the acquisition cost of any other prosthetic limbs/devices/mechanical aids, not to exceed \$250.00 per limb/device/mechanical aid.~~
- d. ~~100% of replacement/repair cost of any prosthetic limb/device/mechanical aid if lost, damaged, or destroyed, if these items are less than two (2) years old, except where it is determined that RIDOC staff was negligent.*~~

Optical Devices:

- a. ~~\$6.00 co-payment for each visit to an optician, optometrist or ophthalmologist.~~

NOTE: ~~Upon request, each inmate is entitled to only one (1) eye exam and/or pair of eyeglasses annually, with appropriate medical co-payment, unless the inmate's medical condition changes.~~

- b. ~~\$15.00 co-payment toward the purchase of each pair of eyeglasses, lenses, or frames per year.~~

- c. ~~100% of the replacement or repair cost of any eyeglasses, lenses, or frames lost, damaged, or destroyed by the inmate if the glasses are less than one (1) year old, except where it has been determined that RIDOC staff was negligent.*~~
- d. ~~50% of the acquisition cost for "specialty" items (e.g., tinted lenses), not to exceed a maximum of \$125.00 per item. However, tinted lenses must be deemed medically necessary by an appropriate medical specialist.~~
- e. ~~Inmates may **not** purchase eyeglasses directly from any vendor.~~

Dentures, Prosthetics, and Optical Devices Reported Stolen or Vandalized

~~If custody or medical staff receives a complaint from an inmate alleging a theft or vandalism, the complaint is investigated by either the Associate Director of Health Care Services (Corrections) or the Warden. Either administrator may request a formal investigation be conducted by the appropriate RIDOC investigatory unit. The inmate owner of the dentures, prosthesis, or optical devices will not be responsible for the replacement cost if an investigation concludes that:~~

- a. ~~a theft did, in fact, occur;~~
- b. ~~vandalism was committed by someone other than the inmate owner of the dentures, prosthesis, or optical devices; or~~

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e. ~~RIDOC staff was negligent.~~

Missed Appointments ~~Inmates failing to appear for or refusing to be seen at scheduled billable on-site or off-site medical appointments are charged the applicable co-payment amount, **unless:**~~

a. ~~the appointment was missed due to circumstances beyond the inmate's control (e.g., court date, facility lockdown, conflicting clinic appointment); or~~

b. ~~the inmate decides he/she does not wish to keep the medical appointment **and** notifies RIDOC Health Care Services staff in advance of his/her decision. (See policy #18.68 DOC, Right to Refuse Treatment, or successive policy.)~~

- ~~An inmate's decision to cancel an appointment may be made in consultation with RIDOC HCS staff (e.g., if the inmate's condition has improved and the inmate and RIDOC HCS staff agree that the appointment is no longer necessary) or independently [e.g., the inmate does not wish to forfeit a scheduled event (such as an educational recognition ceremony) in order to keep the outside medical appointment].~~

- ~~However, such notification must be made in advance of the scheduled appointment's date.~~

- ~~The inmate **will** be charged the appropriate co-payment amount if:~~

- ~~the inmate decides at the last minute that he/she does not wish to keep an outside medical appointment for a frivolous reason, as determined by RIDOC HCS staff (e.g., the inmate does not wish to leave the ACI during inclement weather, or he/she does not like the transporting officers); or~~

- ~~the notification coincides with the actual date of the appointment.~~

- ~~Co-payment amounts are:~~

- ~~\$3.00 for missed routine medical or dental appointments;~~

- ~~\$6.00 for missed specialty consultation appointments.~~

Appeals:

- ~~Consistent with RIDOC's policy governing the inmate grievance procedures (policy #13.10 DOC, Inmate Grievance Procedure, or successive policy), **medical decisions are not grievable.** The Medical Program Director's decisions are final.~~

- ~~However, inmates who believe any provision of the medical co-pay policy was violated may seek resolution via the Department's established inmate grievance procedure.~~

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- ~~Consistent with policy #13.10 DOC, Inmate Grievance Procedure, or successive policy, inmates must attempt to resolve the issue at the lowest level of the proper chain of command before filing a formal grievance.~~
 - ~~Inmates should submit initial inquiries **regarding co-payment amounts** to the **Inmate Accounts Office** within thirty (30) days of receipt of the ledger report.~~
 - ~~Inmates should submit initial inquiries regarding **grievances not related to medical decisions or medical co-payment amounts** (e.g., was the policy applied incorrectly as to whether or not a medication or service is subject to a co-payment) to the **Associate Director of Health Care Services (Corrections)** within thirty (30) days of receipt of the ledger report.~~
- ~~If unsatisfied with the response from Inmate Accounts or the Associate Director of Health Services (Corrections), inmates may utilize the established inmate grievance procedure.~~
- ~~Formal grievances must be written and include copies of initial responses from Inmate Accounts or the Associate Director of Health Care Services (Corrections).~~

~~*NOTE: Staff negligence is determined by the appropriate Administrator [i.e., Warden or designee if custody staff is involved; Associate Director of Health Care Services (Corrections) or designee if Health Care Services staff is involved].~~