

ATTACHMENT

MEMORANDUM

TO: Chairman/Commissioner Croce
FROM: Brian M. Callahan
RE: Federal Prisoner Health Care Copayment Act of 2000
DATE: March 1, 2001

_____The U.S. Department of Justice recently sent out a memorandum to all state, local and federal detention facilities dated January 5, 2001, explaining Public Law 106-294, the Federal Prisoner Health Care Copayment Act of 2000. The Act allows state and local governments to assess and collect a reasonable fee from a federal prisoner's account for health care services provided while the inmate is confined in a nonfederal institution pursuant to an agreement between the Federal Government and the state or local government. As set forth in the memorandum, such fees may be assessed only if certain criteria are met, including the authorization of such a fee by state law.

New York State Correction Law section 500-c(4) states, in pertinent part, that "the chief administrative officer shall receive and safely keep in the county jail of his county each person lawfully committed to his custody." Correction Law section 500-h(1) provides that "diagnoses, tests, studies or analyses for the diagnosis of a disease or disability, and care and treatment by a hospital . . . or by a physician, or by a dentist to inmates of a local correctional facility which are provided by a county or the City of New York shall be available without cost or charge to the inmates receiving such examinations, care or treatment." If an inmate has medical insurance, the County may be reimbursed for such costs from any third-party coverage or indemnification carried by such inmate. See Correction Law section 500-h(2).

In addition, the New York State Comptroller and Attorney General have opined that the county should be charged with the cost of maintaining prisoners at a county jail, including the provision of medical and hospital care for prisoners taken sick while confined or committed to the custody of the County jail. See, e.g., Op. State Compt. 80-520 (1980); Op. Atty. Gen. 81-50 {Inf.} (1981).

Based on the foregoing, it is clear that New York State Law currently does not allow for the assessment of any fees to an inmate for medical care, pursuant to the Federal Prisoner Health Care Copayment Act of 2000 or otherwise. Therefore, the Act is inapplicable to local correctional facilities maintained by both the City of New York and the counties of New York State.