

Law Enforcement Medical Liability Account Oregon Revised Statutes

414.815 Law Enforcement Medical Liability Account; limited liability; rules; report.

(1) The Law Enforcement Medical Liability Account is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the account. The moneys in the Law Enforcement Medical Liability Account are appropriated continuously to the Department of Human Services to pay expenses in administering the account and paying claims out of the account as provided in ORS 414.807.

(2) The liability of the Law Enforcement Medical Liability Account is limited to funds accrued to the account from assessments collected under ORS 137.309 (6) to (10), or collected from individuals under ORS 414.805.

(3) The Department of Human Services may contract with persons experienced in medical claim processing to provide claims processing for the account.

(4) The Department of Human Services shall adopt rules to implement administration of the Law Enforcement Medical Liability Account including, but not limited to, rules that establish reasonable deadlines for submission of claims.

(5) Each biennium, the Department of Human Services shall submit a report to the Legislative Assembly regarding the status of the Law Enforcement Medical Liability Account. Within 30 days of the convening of each regular legislative session, the department shall submit the report to the chair of the Senate Judiciary Committee, and the chair of the House Judiciary Committee. The report shall include, but is not limited to, the number of claims submitted and paid during the biennium and the amount of money in the fund at the time of the report. [1991 c.778 §1; 1993 c.196 §10]

414.807 Department to pay for medical services related to law enforcement activity; certification of injury.

(1)(a) When charges and expenses are incurred for medical services provided to an individual for injuries related to law enforcement activity and subject to the availability of funds in the account, the cost of such services shall be paid by the Department of Human Services out of the Law Enforcement Medical Liability Account established in ORS 414.815 if the provider of the medical services has made all reasonable efforts to collect the amount, or any part thereof, from the individual who received the services.

(b) When a law enforcement agency involved with an injury certifies that the injury is related to law enforcement activity, the Department of Human Services shall pay the provider;

(A) If the provider is a hospital, in accordance with current fee schedules established by the Director of the Department of Consumer and Business Services for purposes of workers' compensation under ORS 656.248; or

(B) If the provider is other than a hospital, 75 percent of the customary and usual rates for the services.

(2) After the injured person is incarcerated and throughout the period of incarceration, the Department of Human Services shall continue to pay, out of the Law Enforcement Medical Liability Account, charges and expenses for injuries related to law enforcement activities as provided in subsection (1) of this section. Upon release of the injured person from actual physical custody, the Law Enforcement Medical Liability Account is no longer liable for the payment of medical expenses of the injured person.

(3) If the provider of medical services has filed a medical services lien as provided in ORS 87.555, the Department of Human Services shall be subrogated to the rights of the provider to the extent of payments made by the Department of Human Services to the provider for the medical services. The Department of Human Services may foreclose the lien as provided in ORS 87.585.

(4) The Department of Human Services shall deposit in the Law Enforcement Medical Liability Account all moneys received by the department from:

(a) Providers of medical services as repayment;

(b) Individuals whose medical expenses were paid by the department under this section; and

(c) Foreclosure of a lien as provided in subsection (3) of this section.

(5) As used in this section:

(a) "Injuries related to law enforcement activity" means injuries sustained prior to booking, citation in lieu of arrest or release instead of booking that occur during and as a result of efforts by a law enforcement officer to restrain or detain, or to take or retain custody of, the individual.

(b) "Law enforcement officer" has the meaning given that term in ORS 414.805. [1991 c.778 §2; 1993 c.196 §9]

137.309 County assessment; amount; collection; distribution.

(1) Except as provided in subsection (4) of this section, whenever a circuit, district or municipal court or a justice of a justice's court imposes a sentence of a fine, term of imprisonment, probation or any combination thereof, including a sentence imposed and thereafter suspended, or orders a bail forfeiture, as a penalty for an offense as defined in ORS 161.505, excluding parking violations, an assessment in addition to such sentence or bail forfeiture shall be collected.

(2) The assessment is not part of the penalty or in lieu of any part thereof.

The amount of the assessment shall be as follows:

(a) \$5, when the fine or forfeiture is \$5 to \$14.99.

(b) \$12, when the fine or forfeiture is \$15 to \$49.99.

(c) \$14, when the fine or forfeiture is \$50 to \$99.99.

(d) \$20, when the fine or forfeiture is \$100 to \$249.99

(e) \$24, when the fine or forfeiture is \$250 to \$499.99

(f) \$59, when the fine or forfeiture is \$500 or more.

(3) Assessments imposed under subsections (1) to (5) of this section shall be collected as provided in subsections (6) to (10) of this section.

(4) The court is not required to impose the assessment, or a part of the assessment, if it finds that the defendant is indigent or that imposition of the assessment would constitute an undue hardship.

(5) Payment to a court shall not be credited to the assessment described in subsections (1) to (5) of this section until all other fines, fees and assessments ordered by the court have been paid.

(6) Except as provided in subsection (9) of this section, within 60 days after receipt of such assessment by the clerk of a circuit, district or municipal court or by a justice of a justice's court, the assessment shall be paid to the county treasurer of the county in which the court is located.

(7) When any bail is deposited with a court for an offense, the person making such deposit shall include with the bail the amount of the assessment.

(8) If bail for an offense is forfeited, the assessment included therewith shall be paid to the county treasurer as provided in subsection (6) of this section. If the bail is returned, the assessment included therewith shall also be returned.

(9) Prior to making payment to the county treasurer as provided in subsections (6) to (10) of this section, the clerk of a circuit, district, municipal or justices court:

(a) Shall withhold and deposit in the State Treasury to the credit of the Law Enforcement Medical Liability Account the following amounts:

(A) \$1, when the assessment is \$12 or \$14.

(B) \$2, when the assessment is \$20 or \$24.

(C) \$5, when the assessment is \$59.

(b) May withhold an amount equal to the reasonable costs incurred by the clerk in collection and distribution of the assessment.

(10) A city that lies in more than one county shall pay the assessments it collects to each county in proportion to the percent of the population of that city that resides in each county. [1991 c.778 §§4,5; 1993 c.14 §6; 1993 c.196 §1; 1993 c.637 §§13,13a]

169.155 Definitions for ORS 169.166. As used in ORS 169.166, and this section:

(1) "Local correctional facility" includes lockups and temporary hold facilities.

(2) "Reasonable efforts to collect the charges and expenses" means that the provider has billed the individual to whom the emergency medical services were

provided or the insurer or health care service contractor of the individual before seeking to collect from the keeper of the local correctional facility. [1979 c.530 §4; 1993 c.196 §6]

169.160 [Repealed by 1971 c.743 §432]

169.165 [1979 c.530 §2; 1981 c.690 §1; repealed by 1993 c. 196 §12]

169.166 Liability costs of emergency medical services. Notwithstanding ORS 169.140 and 169.150 and except as otherwise provided in ORS 414.805 and 414.807;

(1) An individual who receives medical services not provided by the county while in the custody of a local correctional facility or juvenile detention facility is liable:

(a) To the provider of the medical services not provided by the county for the charges and expenses therefore; and

(b) To the keeper of the local correctional facility for the charges or expenses paid by the keeper of the facility for the medical services not provided by the county.

(2) A person providing medical services not provided by the county to an individual described in subsection (1)(a) of this section shall first make reasonable efforts to collect the charge and expenses thereof from the individual before seeking to collect them from the keeper of the local correctional facility.

(3)(a) Except as otherwise provided in subsection (4) of this section, if the provider has not been paid within 45 days of the date of the billing, the provider may bill the keeper of the local correctional facility who shall pay the account in accordance with ORS 169.140 and 169.150.

(b) A bill submitted to the keeper of a local correctional facility under this subsection must be accompanied by evidence documenting that:

(A) The provider has billed the individual or the individual's insurer or health care contractor for the charges or expenses owed to the provider; and

(B) The provider has made a reasonable effort to collect from the individual or the individual's insurer or health care contractor the charges and expenses owed to the provider.

(c) If the provider received payment from the individual or the insurer or health care contractor after receiving payment from the keeper of the facility, the provider shall repay the keeper the amount received from the keeper less any difference between payment received from the individual, insurer or contractor and the amount of the billing.

(4) Except as otherwise provided by ORS 30.260 to 30.300 and federal civil rights laws, upon release of the individual from the actual physical custody of the local correctional facility, the keeper of the local correctional facility is not liable for the payment of charges and expenses for medical services provided to the individual. [1991 c.778 §6]

414.805 Liability of individual for medical services received while in custody of law enforcement officer.

An individual who receives medical services while in the custody of a law enforcement officer is liable:

(a) To the provider of the medical services for the charges and expenses therefore; and

(b) To the Department of Human Services for any charges or expenses paid by the Department of Human Services out of the Law Enforcement Medical Liability Account for the medical services.

(2) A person providing medical services to an individual described in subsection (1)(a) of this section shall first make reasonable efforts to collect the charges and expenses thereof from the individual before seeking to collect them from the Department of Human Services out of the Law Enforcement Medical Liability Account.

(3)(a) If the provider has not been paid within 45 days of the date of billing, the provider may bill the Department of Human Services who shall pay the account out of the Law Enforcement Medical Liability Account.

(b) A bill submitted to the Department of Human Services under this subsection must be accompanied by evidence documenting that:

(A) The provider has billed the individual or the individual's insurer or health care contractor for the charges or expenses owed to the provider; and

(B) The provider has made a reasonable effort to collect from the individual or the individual's insurer or health care contractor the charges and expenses owed to the provider.

(c) If the provider receives payment from the individual or the insurer or health care contractor after receiving payment from the Department of Human Services, the provider shall repay the department the amount received from the public agency less any difference between payment received from the individual, insurer or contractor and the amount of the billing.

(4) As used in this section:

(a) "Law enforcement officer" means an officer who is commissioned and employed by a public agency as a peace officer to enforce the criminal laws of this state or laws or ordinances of a public agency.

(b) "Public agency" means the state, a city, port, school district, mass transit district or county. [1991 c.778 §7]

131.900 Liability for medical expenses for person restrained, detained or taken into custody. Except as otherwise provided by ORS 30.260 to 30.300, federal civil rights law or written agreement, the state, a county, a city, a law enforcement agency or local correctional facility thereof is not liable for charges or expenses for any medical services provided to an individual who is the object of efforts by a law enforcement officer to restrain or detain or take into custody. [1991 c.778 §8; 1993 c.196 §2]

131.990 [Formerly 145.990; repealed by 1987 c.526 §2]