North Carolina Department of Correction

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Beverly Eaves Perdue
Governor

Alvin W. Keller, Jr.
Secretary

MEMORANDUM

TO: Senator Harry Brown
Senator Thom Goolsby
Representative N. Leo Daughtry
Representative W. David Guice
Representative Shirley B. Randleman

FROM: Jennie L. Lancaster, Chief Operating Officer

RE: Legislative Report on
Inmate Medical Cost Containment
(Section 19.6. (a) through (g) of Senate Bill 897)

DATE: March 1, 2011

Pursuant to Section 19.6. (a) through (g) of Senate Bill 897, please find attached the Department of Correction's Legislative Report on Inmate Medical Cost Containment.

JLL:BSB/jbk

cc: Aaron Gallagher
John Poteat
Doug Holbrook
Kristine Leggett
Gov Ops Website
General Assembly Legislative Library

LEGISLATIVE DIRECTIVE SB 897

INMATE MEDICAL COST CONTAINMENT

Section 19.6.(a) through (c) of Senate Bill 897 (Session Law 2010-31) outlines specific directives that DOC should implement in an effort to curtail rising inmate healthcare cost. Section 19.6.(d) states: ***The Department of Correction, in consultation with the Office of State Budget and Management, shall study the impact on inmate medical costs resulting from the measures set forth in subsections (a), (b), and (c) of this section.***

BACKGROUND: The Department of Correction is statutorily required and constitutionally mandated to provide a 'community standard of care' for inmates. This is currently accomplished through the provision of medical services within the Department's prison facilities and through the use of community medical providers when the type or level of care needed is not available within facilities. Prior to the passage of SB 897, the Department was directed to attempt to contract with select providers and to negotiate reduced pricing. The limited success of that model and the resulting exposure of the State to paying the community medical provider's full retail charge when unable to successfully negotiate reduced pricing led to the passage of SB 897 which mandated payment to non-contracted providers at 70% of charge (Section 19.6.(a), also referred to herein as 'The 70% Mandate'). SB 897 also addressed the equitable distribution of inmates to providers (Section 19.6.(b), also referred to herein as 'The Five Percent Mandate'.) Finally, SB 897 directed the Department to work with the Division of Medical Assistance to ensure that inmates who are eligible for Medicaid are enrolled in Medicaid when admitted for care outside the Department's facilities (Section 19.6.(c), also referred to herein as 'The Medicaid Mandate').

The purpose of this report is to assess the impact on inmate medical costs resulting from these measures. These measures specifically impact the Department's expenditures for care outside of its facilities. (Note: Providers who provide 'on-site' services to the Department are not impacted by the provisions of SB 897. Payment for these services is controlled through negotiated service contracts with each provider.)

Below please find in bold a restatement of each section of the provision which is followed by a report on its impact.

"The 70% Mandate"

SECTION 19.6.(a) The Department of Correction may reimburse those providers and facilities providing inmate medical services at a rate not to exceed seventy percent (70%) of the amount charged based on the usual and customary charges in effect for all other patients as of July 1, 2010. Usual and customary charges shall be established for each provider or facility based on the schedule of usual and customary charges used for all other patients furnished by that provider or facility providing inmate medical services in effect on July 1, 2010. Information furnished by providers and facilities regarding their usual and

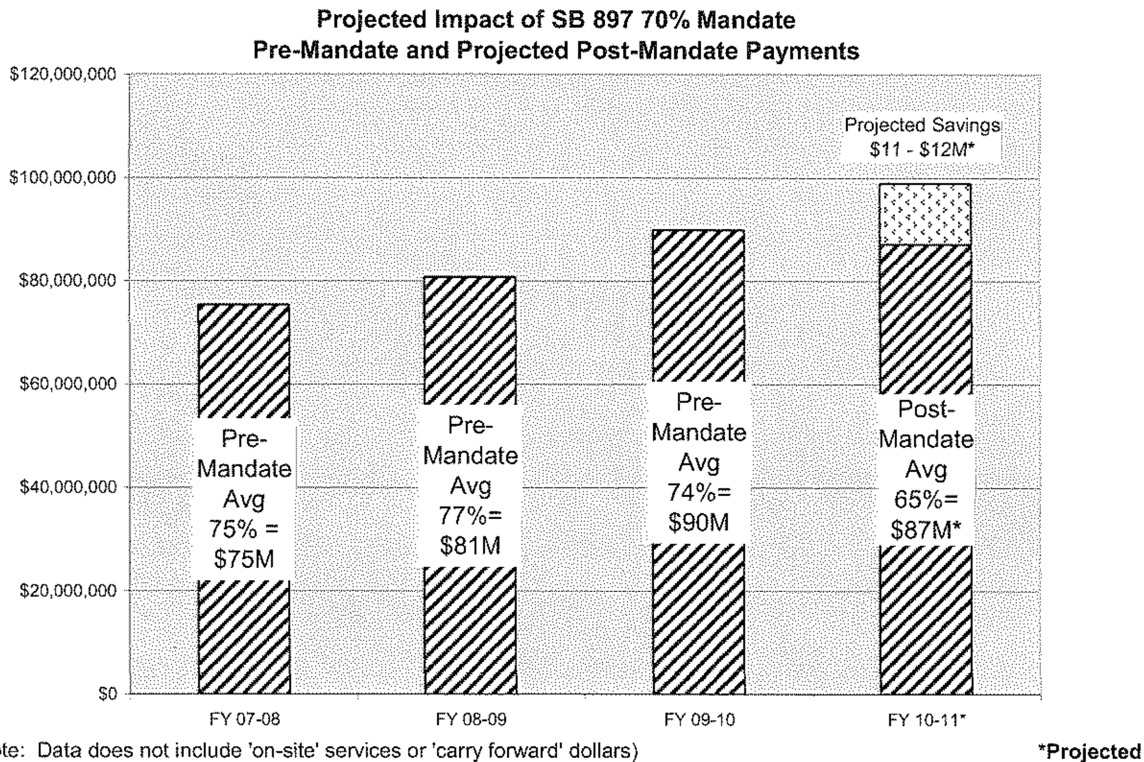
customary charges under this section is deemed as a matter of law to meet all the conditions of G.S. 132-1.2(1). The limitation on payment for inmate medical services under this subsection shall not apply to reimbursement rates the Department of Correction has otherwise contracted for under contracts in effect as of June 30, 2010. This subsection applies to all medical and facility services provided outside the correctional facility, including hospitalizations, professional services, medical supplies, and other medications provided to any inmate confined in a correctional facility.

- The Department began paying non-contracted providers at 70% of charges for all claims with Dates of Service of July, 1, 2010 or later.

- Estimated Savings: Annual Plan costs vary from year to year due to utilization variances. The mandate, when combined with existing contracts, is currently netting an average payment of 65% of charge. (The average payment is lower than the 70% mandated level due to the impact of the Department's existing contracts, some of which provided for reimbursement at rates lower than 70%).

  Prior to the mandate, the Department paid an average of 75% of charge.

  Since the Department is currently in the middle of its fiscal year it is not possible to give a specific fiscal year dollar amount of savings generated by 'The 70% Mandate' as claims for care will continue to be received through June 30, 2011. The graph below, however, provides an estimated savings based on the analysis of current average payment rates under 'The 70% Mandate'(a net average of 65% of charge). Estimating an annual increase in total claims (projected at $133 million for FY 2010-11) submitted for reimbursement, we applied the reimbursement average of 65% to arrive at the estimated savings. Using this model, the additional savings to be generated by 'The 70% Mandate' is estimated to range from $11 million to $12 million. As previously stated, the actual total dollar savings will depend on the total amount of billed charges for the Fiscal Year which are, as of yet not fully known as the fiscal year is not complete.



(Note: Data does not include 'on-site' services or 'carry forward' dollars) *Projected

- The Department has reviewed all of its existing facility and physician contracts and will either be renegotiating or terminating upon renewal those contracts with net rates of reimbursement higher than 70%. The Department continues to honor until expiration its existing, in force, facility and physician contracts pursuant to SB 897.

- Establishment of Charges: As directed by SB 897 the Department has contacted all hospitals in the State and all physician practices which have provided services and requested a copy of their chargemaster (hospital) or fee schedule (physician).

- Establishment of Usual, Customary, and Reasonable (UCR): In order to cost-effectively establish a reasonable fee schedule for non-contracted physicians, the Department decided to purchase an industry standard Usual, Customary, and Reasonable (UCR) data set. Payments to all non-contracted physicians have been based on 70% of the provider's submitted charge OR 70% of the median UCR charge for the provider's service area whichever is lower. Savings generated to date from the implementation of these UCR limits: $880,000. These savings are included in the overall projected savings of $11 million to $12 million resulting from the 70% Mandate.

- Effect on Access: The Department of Correction has continued its effort to attain and retain contracted providers following the mandates of this provision. As of February 9, 2011, twenty-one (21) group practices or hospitals have discontinued contracting with NCDOC. A number of these providers decided not to contract with the DOC but instead elected to continue treating inmates at the rates mandated in SB 897. Two providers notified NCDOC that they decided to no longer accept inmates specifically because of the rates mandated in SB 897. Even without these vendors, Health Services has been able to continue to assure the provision of needed care around the state.

  A number of discussions have been held with UNC and Rex Healthcare relative to the recruitment of physicians to provide obstetrical care. Prenatal care is provided for pregnant inmates on-site at North Carolina Correctional Institution for Women via an independent contractor who no longer does deliveries. This is a well established relationship and has worked well for the DOC over the years. Since receiving information from WakeMed that they were no longer interested in deliveries for inmates, community obstetricians have been contacted by DOC Health Services and Rex Healthcare. Unfortunately, due to the perceived risks of malpractice lawsuits being filed by inmates following their delivery, it has not been possible to find a local obstetrician interested in partnering with the DOC to do the routine deliveries. Fortunately, for pregnancies deemed as high risk, the DOC has been able to send these inmates for their prenatal care and scheduled deliveries to UNC High Risk Obstetric Clinic.

- Effect on Secure Wards: (A Secure Ward is a closed ward within a community medical facility that has a special security feature including controlled access and 24/7 security provided by the Department of Correction.) **Catawba**: (Western region) The Department's 'secure ward' contract currently in place with Catawba Valley Hospital provides for reimbursement rates comparable to the 70% mandate. It is anticipated that this contract will be renewed at the 70% mandate level. **Kindred:** The Department's 'secure ward' contract with Kindred provides for reimbursement below the 70% mandate. Kindred has communicated to the Department that it is not interested or willing to continue this contract due to the number of inmates in the ward who have been determined to be Medicaid eligible. Kindred maintains that the reimbursement rate set by Medicaid is insufficient to cover the provision of care and security costs associated with these patients. The Department has decided to extend its contract with Kindred at the current negotiated discount off of charges as it works to find appropriate placement options for these inmates. **University Health Systems (UHS/Pitt):** The Department has entered into a contractual agreement with the University Health Systems and Pitt Memorial Hospital for the provision of inpatient health care services. **Heritage:** (Eastern region) The Department's 'secure ward'

contract with Heritage Hospital is in the final stages of development. Heritage is one of several contracted hospitals under the University Health System's umbrella. This contract provides for reimbursement rates at 70% of billed charges.

The Five Percent Mandate

SECTION 19.6.(b) The Department of Correction shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Correction must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities. With respect to any single hospital, the Department of Correction shall make best efforts to seek admission of the number of inmates representing no more than five percent (5%) of all inmates requiring hospitalization or hospital services on an annual basis, unless the failure to do so would jeopardize the health of an inmate or unless a higher level is agreed to by contract. The Department shall also give preference to those hospitals or other health care facilities in the same county or an adjoining county to the correctional facility where an inmate requiring hospitalization is incarcerated.

The Department continues its efforts to distribute patients across the state. Since July 2010, the Department has utilized sixty-nine (69) hospitals and medical centers across the state. Although the 5% distribution has not been realized in all hospitals across the state, we have noted some changes relative to patient distribution. We note the following in our most utilized hospitals when comparison is made to the previous year:

	09/10		10/11	Variance
WakeMed	*12.1%	to	11.0%	(1.1%)
UNC Hospitals	*15.5%	to	19.1%	3.6%
Catawba Valley	*11.2%	to	10.7%	(0.5%)
Pitt Memorial	* 4.6%	to	3.9%	(0.7%)

*Please note that these are total percentages for FY 09-10 while the second column represents percentages for first half of current FY 10-11. These percentage changes are reflective of the ever changing healthcare needs of the inmate population at any given time or location. (See attached chart, Hospital Utilization July 2010 through December 2010, Percentage of Inmates.)

The Department continues in ongoing discussions with UNC relative to the use of its hospitals and specialists. Agreement is near completion on the utilization of all specialists in the UNC Healthcare network. This will enable the Department to have access to these specialists at UNC and some onsite at Central Prison (CP) and North Carolina Correctional Institution for Women (NCCIW).

As of this writing, hospitalization data has been shared with Rex Hospital and Duke Raleigh. They have both voiced commitment to working with the Department and they are continuing the development of their internal processes so as to assure the smooth transition of inmate care in their facilities. It is important to note that the Department has worked out its protocols for admissions and flow of patients here in the Triangle area, where the majority of sick inmates are housed.

Specialty services for Cardiology, ENT and Urology are currently being added to the overall Duke contract. The Department is developing the scope for these services and anticipates initiation of them in the near future. These specialists at Duke will develop schedules which will allow them to come onsite at CP and NCCIW.

The Medicaid Mandate

SECTION 19.6.(c) The Department of Correction shall consult with the Division of Medical Assistance in the Department of Health and Human Services to develop protocols for prisoners who would be eligible for Medicaid if they were not incarcerated to access Medicaid while in custody or under extended limits of confinement. The Department shall seek reimbursement from Medicaid for those health care costs incurred by the Department in those instances when an inmate's Medicaid eligibility has been temporarily reinstated due to a hospitalization. The Department of Correction shall also work with the Division of Medical Assistance to determine the feasibility of applying for a Medicaid waiver to cover the inmate population.

From the beginning of the program development process, the Department of Correction and the Department of Health and Human Services Division of Medical Assistance (DHHS/DMA) have been active and willing partners in all phases of the development and implementation of this program.

The Department of Correction has shared information particular to the needs and issues in working with offender populations. DHHS/DMA has shared information particular to the policies, procedures, federal and state regulations, mandates, and protocols in the eligibility, application and program qualifications under the Centers for Medicare and Medicaid Services.

DHHS/DMA has participated in training of Department of Correction staff necessary in completing, submitting and processing Medicaid applications for this vastly diverse population. Department of Correction staff has provided training and orientation to NCDHHS/DMA staff regarding issues in working with the offender population including but not limited to procedures for accessing financial and medical information, demographics, and information management systems.

The two partners in this project have worked together diligently to develop a system which allows for case finding, identification of prior and potentially eligible offenders as well as notifying DMA of potential Medicaid fraud cases involving incarcerated, active Medicaid recipients. Program development for this project encompassed revisions of existing informational screens in the Offender Population Unified System (OPUS) as well as invention of

new screens which will allow for the tracking and input of information specific to Medicaid eligibility and receipt of benefits. All of this was written in such a fashion that it is also user friendly for notification of providers to Medicaid eligibility status and payment of claims through our Medical Claims Payment Section. The Department of Correction and DHHS/DMA have defined the process for interdepartmental reimbursement for inmates found to be eligible for Medicaid during periods of hospitalization while incarcerated.

NC Department of Correction Division of Prisons (NCDOC/DOP) Social Workers in the Mental Health and the Program Sections began interviewing potentially eligible offenders hospitalized at community-based inpatient facilities on February 1, 2011 for potential Medicaid coverage. Screening for potential eligibility began that date and assignments were made to evenly distribute the applications on potential eligible offenders based on physical proximity and section affiliation. Operating within a 14 calendar day window of information gathering and application completion, Medicaid applications, along with Social Security Disability applications as appropriate, are being submitted to county Department of Social Services for processing within that time frame.

Anticipated Savings

As stated previously, Department of Correction Social Workers in the Mental Health and the Program Sections began interviewing potentially eligible offenders hospitalized at community-based inpatient facilities on February 1, 2011 for potential Medicaid coverage. As of February 22, 2011 there have been 17 inmates identified as potentially Medicaid eligible. These applications are in process at the appropriate County Department of Social Services office. In addition, medical bills for these services have not all been received by Medicaid. Therefore, at this time, it is not possible to accurately measure the anticipated savings to be generated from this program. However, it does appear that the program will have an impact and will generate savings for the State.

Provider Response to Medicaid Mandate

To date, the implementation of the program has gone smoothly and providers of inpatient services (hospitals and physicians) have accepted these inmates as they would other inpatient Medicaid recipients.

We are aware that some hospitals which provide long term acute care (LTAC) and long term care (LTC) are concerned about their rates of reimbursement being at Medicaid rates. These hospitals have expressed potential interest in working with us, however, they would prefer a patient mix which would ensure best use of their facilities and required resources.

Status of Medicaid Waiver Application

The Department of Correction and DHHS/DMA continue to investigate options for implementation of a Medicaid waiver for all inmates. The Department of Correction is relying on the guidance of DHHS/DMA in this process.

Status of Request for Proposal

Senate Bill 897, Section 19.6.(e) The Department of Correction shall make every effort to explore other cost containment methods not expressly outlined in this section. These methods may include the following:

(1) Contracting with a private third party to manage and provide all inmate medical services;
(2) Partnering with the federal government to allow for the treatment of State inmates in federal correctional hospitals; and
(3) Purchasing a fixed number of beds at a hospital.

(Note: Items 19.(6).(e). (2) and (3) were reported on in the October 2010 Legislative Report and there are no additional developments to report on these issues at this time.)

The Department has established a workgroup comprised of members from DOC Medical Services, Fiscal, Information Technology and Procurement to develop a Request for Proposal to contract with a third party provider to manage and provide all inmate medical services. This workgroup has been working with State Purchase and Contract and their goal is to post the bid in March or April of 2011 with a projected start up date of January 2013.

The Request for Proposal (RFP) was developed using eight (8) Key Elements:

1. Total Medical, Mental Health and Dental Support and Services for all 70 DOP Facilities
2. Provide Management and Medical Services at the new Central Prison Hospital and Healthcare Facility at the North Carolina Correctional Institution for Women
3. Pharmacy Support and Services
4. Electronic Medical Records
5. Technical Support and Services
6. Claims Management Processing
7. Utilization Management
8. Financial Management

Total Services

The vendor shall provide a managed, stable, high quality network or networks of individual, group, and hospital health care services for Medical, Mental, and Dental services for all 70 Division of Prisons Facilities. The vendor will also provide industry standard medical practices and flexibility to adjust as Department of Correction regional capacities, acuity levels and custody levels change.

Provide Management and Medical Services at the new Central Prison Hospital and Healthcare Facility at the North Carolina Correctional Institution for Women

The vendor shall assume all responsibility for providing the management and medical services for the new Central Prison Hospital and Healthcare Facility at the North Carolina Institution for Women.

Pharmacy Support and Services
The vendor shall assume all responsibility for the purchase and distribution of prescription and non-prescription medications and all intravenous solutions ordered by the vendor's physicians, mid-level practitioners, and dentists.

Electronic Medical Records
The vendor shall provide an Electronic Medical Record (EMR) system which must be a fully data integrated software application that allows ready access to patient information throughout the NC DOC facilities.

Technical Support and Services
DOC requires a technical solution that satisfies all requirements within the RFP while complying with applicable Federal and/or State requirements. At a minimum the RFP details: system interface between DOC and the vendor's EMR for exchange of operational information, rules engine, inmate record merging, audit trails, search and query, security, system architecture, maintenance, software controls and system availability.

Claims Management Processing
The vendor shall provide a consolidated claims processing solution resulting in maximized efficiencies. The vendor shall receive and process all medical claims, track all claims, adjustments, and financial transactions from receipt to final disposition.

Utilization Management
The vendor shall provide all DOC facilities with bi-directional web portal access for Prior Authorization. The requests will be submitted to the vendor via the web portal for adjudication and response using DOC Health Services medical policies and procedures

Financial Management
The vendor shall maintain all fiscal records in accordance with generally accepted accounting principles (GAAP).

SECTION 19.6.(g) The Department of Correction shall report to the Joint Legislative Commission on Governmental Operations no later than October 1, 2010, and quarterly thereafter on:

> **(1) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers; and**
> **(2) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.**

To ensure that correct information relative to Section 19.6(g) is reported, the Department sought clarification from the Fiscal Research Division. It is our understanding that the volumes of services referenced are for hospitalizations.

From July, 1, 2010 to February 22, 2011, the Department has had 1071 hospital admissions statewide. Of these admissions, 925 (86%) were emergent and 146 (14%) were scheduled. Of the 925 emergent admissions, 497 (54%) were to Non-Contracted Hospitals and 428 (46%) were to Contracted Hospitals. Of the 146 scheduled admissions, 25% (37) were to Non-Contracted Hospitals and 75% (109) were to Contracted Hospitals. (See attached graph, Distribution of Emergent and Scheduled Admissions July 2010 through February 2011.)

SUMMARY

In anticipation of savings to be generated by the provisions of the passage of SB 897 the Department's FY 10-11 budget was reduced by $20.5 million.

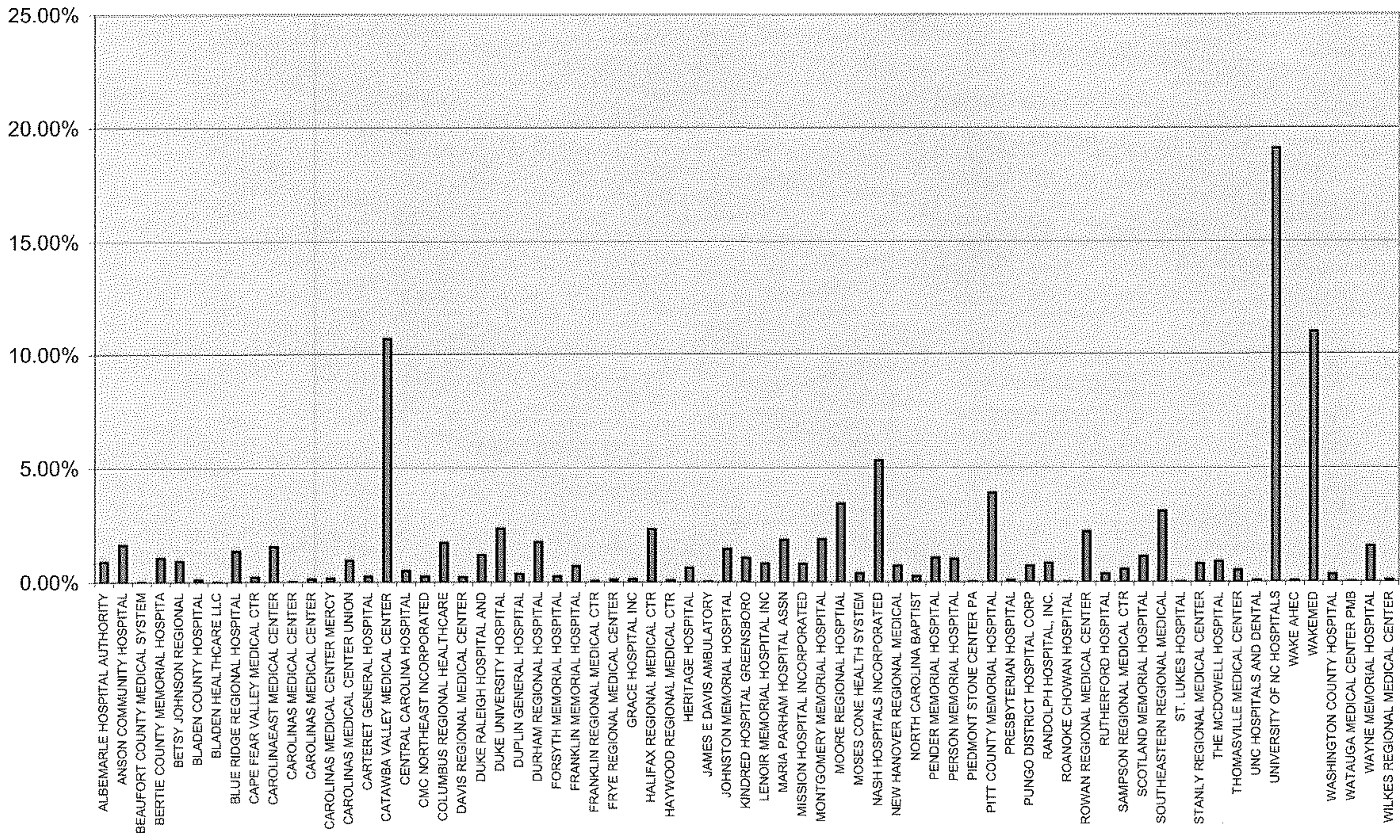
Based on current claims data, it appears that the projected savings that will be realized by "The 70% Mandate" will be approximately $12 million per year. As of this writing, savings generated by "The Medicaid Mandate" are not able to be quantified with a sufficient degree of certainty. However, the combined savings anticipated from both mandates is not currently projected to equal the $20.5 million budget reduction. This will require the agency to find other sources of funds to pay all of the medical bills for this fiscal year.

In order to sustain the level of budget reductions currently in place, the Department would need further legislative assistance in adjusting the reimbursement cap to hospitals and professional service providers, with the emphasis on realizing greater savings to match the level of appropriations for these services.

The Department's Health Services staff is continuing its efforts to meet the requirements of "The Five Percent Mandate". However, due to the number of inmates housed in Wake County and the clinical specialization of care within the Triangle (e.g., Trauma Services) the Department anticipates that it will be difficult to balance the requirements of 'The Five Percent Mandate' with the requirement for the provision of a 'community standard of care' within the county, or neighboring county, in which inmates are housed.

The Department is working with the Governor's staff to offer a new special provision for legislative consideration. The critical elements of any new provision would include:

1) Maintains a cap on reimbursement rates consistent with the budget DOC is allowed for such services;
2) Ensures access for medical care for the inmate population;
3) Provides additional time for the Department to meet the requirements of the 5% volume mandate.



Hospital Utilization July 2010 thru December 2010
Percentage of Inmates
25.00%
20.00%
15.00%
10.00%
5.00%
0.00%
ALBEMARLE HOSPITAL AUTHORITY
ANSON COMMUNITY HOSPITAL
BEAUFORT COUNTY MEDICAL SYSTEM
BERTIE COUNTY MEMORIAL HOSPITA
BETSY JOHNSON REGIONAL
BLADEN COUNTY HOSPITAL
BLADEN HEALTHCARE LLC
BLUE RIDGE REGIONAL HOSPITAL
CAPE FEAR VALLEY MEDICAL CTR
CAROLINAEAST MEDICAL CENTER
CAROLINAS MEDICAL CENTER
CAROLINAS MEDICAL CENTER
CAROLINAS MEDICAL CENTER MERCY
CAROLINAS MEDICAL CENTER UNION
CARTERET GENERAL HOSPITAL
CATAWBA VALLEY MEDICAL CENTER
CENTRAL CAROLINA HOSPITAL
CMC NORTHEAST INCORPORATED
COLUMBUS REGIONAL HEALTHCARE
DAVIS REGIONAL MEDICAL CENTER
DUKE RALEIGH HOSPITAL AND
DUKE UNIVERSITY HOSPITAL
DUPLIN GENERAL HOSPITAL
DURHAM REGIONAL HOSPITAL
FORSYTH MEMORIAL HOSPITAL
FRANKLIN MEMORIAL HOSPITAL
FRANKLIN REGIONAL MEDICAL CTR
FRYE REGIONAL MEDICAL CENTER
GRACE HOSPITAL INC
HALIFAX REGIONAL MEDICAL CTR
HAYWOOD REGIONAL MEDICAL CTR
HERITAGE HOSPITAL
JAMES E DAVIS AMBULATORY
JOHNSTON MEMORIAL HOSPITAL
KINDRED HOSPITAL GREENSBORO
LENOIR MEMORIAL HOSPITAL INC
MARIA PARHAM HOSPITAL ASSN
MISSION HOSPITAL INCORPORATED
MONTGOMERY MEMORIAL HOSPITAL
MOORE REGIONAL HOSPTIAL
MOSES CONE HEALTH SYSTEM
NASH HOSPITALS INCORPORATED
NEW HANOVER REGIONAL MEDICAL
NORTH CAROLINA BAPTIST
PENDER MEMORIAL HOSPITAL
PERSON MEMORIAL HOSPITAL
PIEDMONT STONE CENTER PA
PITT COUNTY MEMORIAL HOSPITAL
PRESBYTERIAN HOSPITAL
PUNGO DISTRICT HOSPITAL CORP
RANDOLPH HOSPITAL, INC.
ROANOKE CHOWAN HOSPITAL
ROWAN REGIONAL MEDICAL CENTER
RUTHERFORD HOSPITAL
SAMPSON REGIONAL MEDICAL CTR
SCOTLAND MEMORIAL HOSPITAL
SOUTHEASTERN REGIONAL MEDICAL
ST. LUKES HOSPITAL
STANLY REGIONAL MEDICAL CENTER
THE MCDOWELL HOSPITAL
THOMASVILLE MEDICAL CENTER
UNC HOSPITALS AND DENTAL
UNIVERSITY OF NC HOSPITALS
WAKE AHEC
WAKEMED
WASHINGTON COUNTY HOSPITAL
WATAUGA MEDICAL CENTER PMB
WAYNE MEMORIAL HOSPITAL
WILKES REGIONAL MEDICAL CENTER

Inmate External Hospital Admissions
Emergent and Scheduled
for period 07/01/2010 - 02/21/2011