



COUNTY ADVISORY BULLETIN

CAB

Published by: County Commissioners Association of Ohio

37 West Broad Street, Suite 650 • Columbus, Ohio 43215-4195
Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

BULLETIN 2000-04

SENATE BILL 173 REQUIRES COUNTIES TO DESIGNATE TUBERCULOSIS CONTROL UNITS AND PROVIDES A REIMBURSEMENT MECHANISM FOR DETAINMENT COSTS

Effective Date: October 10, 2000

Revised Code Sections Affected: To amend sections 124.11, 329.05, 339.11, 339.16, 339.17, 339.38, 339.39, 339.42, 339.43, 3107.18, 3313.55, 3313.71, 3317.03, 3701.01, 3701.14, 3702.62, 3727.01, 5705.01, 5705.191, 5705.20, and 5705.25; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 339.38 (339.75), 339.39 (339.76), 339.42 (339.74), and 339.43 (339.77); to enact sections 339.71, 339.72, 339.73, 339.78, 339.79, 339.80, 339.81, 339.82, 339.83, 339.84, 339.85, 339.86, 339.87, 339.88, and 339.89; and to repeal sections 339.20, 339.21, 339.22, 339.23, 339.231, 339.24, 339.25, 339.26, 339.27, 339.28, 339.29, 339.30, 339.31, 339.32, 339.33, 339.34, 339.35, 339.36, 339.37, 339.40, 339.41, 339.45, 339.46, 339.47, 339.50, 339.51, 339.52, 339.53, 339.54, 339.55, 339.56, 339.57, 339.58, 339.59, 339.60, 339.61, 339.62, 339.63, 339.64, 339.99, 3335.43, 3701.84, and 3707.11.

Lead Sponsor: DRAKE

Senate Co-Sponsors: KEARNS-SPADA-PRENTISS-HAGAN

House Co-Sponsors: JONES- VESPER-PATTON-TERWILLEGER-BARNES-SMITH-TIBERI-FLANNERY-VERICH- ALLEN-WIDENER-O'BRIEN-AMSTUTZ-GRENDELL

OVERVIEW

For decades, county commissioners have had the burden of an unfunded mandate requiring counties to pay for TB control and treatment. While CCAO was successful in limiting the circumstances where counties are financially liable, the unfunded mandate still exists in certain areas.

The sponsor of the act introduced the legislation in order to repeal antiquated statutes

related to tuberculosis hospitals that no longer exist and update the protocols for controlling TB in a modern and transient society. It is hoped that by providing a uniform approach to TB control and treatment, someday it will be easier to lobby for the state to completely assume responsibility for TB, in those areas not wanting to handle it locally.

Senate Bill 173 requires county commissioners to pass a resolution designating a county or regional TB control unit for their county. Counties are given a great deal of flexibility in naming the TB Control Unit. Counties may take a single county or multi-county approach and may choose an entity currently providing TB services or select the board of health, a TB clinic, or contract with a hospital. Regardless of which entity a county selects, that entity is obligated to serve as the TB control unit.

The act also updates procedures for the TB control units to follow when an individual has not complied with a prescribed treatment. In doing so, the bill authorizes TB control units to detain individuals who do not comply with treatment in order to protect public health. CCAO was successful in securing some funding for the expenses incurred in detaining indigent individuals.

BACKGROUND

Tuberculosis (TB) is a disease that is spread from person to person through the air. TB was once the leading cause of death in the United States. But in the 1940's, scientists discovered the first of several drugs now used to treat TB. Until the mid-1980's, the U.S. was well on its way to eliminating TB as a public health threat. At that point TB elimination efforts at the federal level were stopped, and TB cases subsequently increased by 20% between 1985 and 1992. Additionally, TB does not stop at the U.S. borders, and globally TB continues to kill more people each year than any other infectious disease. There are almost 2 billion people (one third of the world's population) infected with TB, and each year there are about 3 million TB deaths worldwide.

Currently, there are an estimated 10 to 15 million Americans infected with the TB bacteria who have the potential to develop active TB in the future. It is important to distinguish TB *infection* from TB *disease*. In most people who breathe in TB bacteria and become infected, the body is able to fight the bacteria to stop it from growing. This is called TB infection, and people with TB infection can't spread the disease to others. However, about 10% of these infected individuals will develop active TB disease at some point in their lives. Once active, TB disease is highly contagious and deadly if not treated. Data for 1999 shows that more than 17,000 cases of the active TB disease were reported in the U.S. This number marks the seventh consecutive year that active TB cases have declined, suggesting that the nation is recovering from the resurgence of TB in the 1980's. However, this national trend masks several areas of ongoing concern, including cases of drug-resistant TB and an increasing proportion of TB cases among residents born outside the U.S.

Treatment for TB involves taking medicine for at least 6 months, as the TB bacteria die very slowly. Fortunately, people start feeling better and are no longer able to spread it to

others after about 2 or 3 weeks of treatment. However, when TB patients do not take their medicine as prescribed, the TB bacteria may become resistant to a certain drug. Multidrug-resistant TB is a very serious problem. It poses a very serious health threat and has a very high price tag - both in terms of the financial cost and a higher fatality rate.

How did County Commissioners Become Responsible for a Contagious Disease?

In the 1880's TB was the primary health concern and there was no organized system of health care delivery or insurance. Ohio responded by requiring counties to fill the void by forming separate TB hospitals and schools. This unique statutory throwback has left present day county commissioners responsible for providing and funding treatment for persons infected with TB. While Senate Bill 173 updates the terminology and process for controlling and treating TB in order to better protect public health, commissioners are still responsible for designating an entity to address the public health concerns and remain on the hook for certain costs of TB.

CHANGES MADE BY S.B.173

Tuberculosis Control Units

Senate Bill 173 calls for each board of county commissioners to designate a tuberculosis control unit to ensure that TB treatment is made available to all individuals with TB who reside in the area served by the unit. This may be accomplished by designating a county unit or by entering into an agreement with one or more other counties under which a district control unit is designated. The act specifies that the entity designated as a county or district tuberculosis control unit must accept that designation and fulfill its duties as the tuberculosis control unit. In designating the unit, the board may select any of the following:

1. A communicable disease control program operated by a board of health of a city or general health district;
2. A tuberculosis program operated by a county that receives existing state funding for the treatment of tuberculosis;
3. A tuberculosis clinic established by a board of county commissioners;
4. A hospital that provides tuberculosis clinic services under contract with a board of county commissioners.

Funding of Tuberculosis Treatment Historically

In 1995, a report on unfunded mandates by the State and Local Government Commission and intensive lobbying by CCAO led to the creation of a line item in the state budget to assist counties in payment for treatment of TB patients. The amount paid annually is based on whatever the state appropriates and the number of documented TB cases that are successfully treated and submitted for reimbursement. The amount of funding in the line item has remained the same since 1995, at \$200,000 per year. In 1999, there were

270 cases submitted to the Department of Health that qualified for reimbursement. The reimbursement per case was \$740. While the cost of TB control and treatment programs varies widely, the average cost per case to counties was around \$3,000. S.B. 173 does not change how this line item works, but the amount may be increased slightly if new money allocated for detention costs mentioned below is not depleted.

Funding Changes Made in S.B. 173

One important funding change found in S.B. 173 is language that now requires individuals who receive TB treatment to disclose the identity of any third party whom the individual has or may have a right of recovery for the treatment provided. The act specifies that county commissioners are to be the payor of last resort for TB treatment and shall pay for treatment only to the extent that payment is not made through third-party benefits.

Counties will continue to have the authority to levy a tax for TB clinics with voter approval. The tax may be levied if the amount raised within the ten-mill limitation for supplementing the county's general fund is insufficient for supporting TB clinics. The total levy cannot exceed a time period of 5 years and may not exceed .65 mill. S.B. 173 specifies that if a tax was levied before the act's effective date, the levy may be renewed or replaced for that purpose. S.B. 173 also expands the purposes for which a TB tax may be levied to include the updated treatment practices that must be provided under the act. Eight counties currently have TB levies in effect: Athens (.3), Jackson (.1), Jefferson (.3), Lorain (.2), Mahoning (.1), Meigs (.5), Muskingum (.4), and Scioto (.3).

For indigent patients, Medicaid will reimburse certain costs associated with treatment, such as TB testing and medications. However, many of the public health duties associated with controlling TB outbreaks required by the act, such as tracking down the people who have come into contact with an active TB patient, making sure active TB patients are taking their medications, reporting requirements, etc., are neither reimbursed by Medicaid nor private third-party benefits. These costs and treatment costs for uninsured individuals who are not Medicaid eligible will continue to remain a funding liability for counties. The state TB treatment line item will help offset the cost of indigent patient treatment to some extent, but by how much will vary depending on the number of TB cases successfully treated and submitted for reimbursement to the Department of Health. Also a concern are TB treatment costs that do not lead to a successful treatment of the disease, as the Director of Health has the discretion to deny these costs for reimbursement (and does). CCAO advocated that this be changed, but the Department was not receptive at this time, since they are unable to fully reimburse for even those cases that have been successfully treated.

Expenses for Detention

Under the act, an individual diagnosed with active TB must complete the entire treatment regimen and must not be in any public place in order to protect against spread of the disease. If an individual fails to comply, the TB control unit may apply to the probate court

for an injunction. If an individual fails to comply with the injunction, the TB control unit may request the probate court to issue an order granting the unit authority to detain the individual.

Expenses for the detention are to be paid by the individual, unless the individual is indigent. Expenses for indigent individuals are to be paid by the board of county commissioners of the county from which the individual was removed. S.B. 183 permits county commissioners to apply to the Director of Health for reimbursement of the expenses incurred in detaining indigents and requires the Director to annually reimburse commissioners for these expenses based on the amount appropriated. If any of the detention funds are not expended by the end of the fiscal year, the funds are to be transferred for the purpose of TB treatment and disbursed to counties. CCAO was able to secure \$60,000 in H.B. 640, the biennial capital appropriations bill, to be earmarked for detention cost reimbursement for FY 2001. Whether or not this amount will be sufficient to completely reimburse counties for detention costs of indigent individuals is almost impossible to determine and will likely vary from year to year.

As of this publication, the exact process for how counties will access the new detention funds has yet to be determined by the Department of Health. As soon as an announcement is made, CCAO will relay the information to counties.

CONCLUSION

County Commissioners need to designate a TB control unit. Commissioners can continue to access reimbursement funds from the Director of Health for TB treatment. County Commissioners are now the payor of last resort for TB treatment costs and may seek payment from third party providers when applicable. In the event a TB control unit needs to detain an individual, counties can apply to the Director of Health for reimbursement. The amount received for treatment and detention will vary depending upon the amount appropriated by the state and the number of TB cases that are submitted for reimbursement.

If you have any questions about this Bulletin, please direct them to Suzanne Alexander, CCAO Policy Analyst, at (614) 221-5627 OR e-mail Suzanne at salexander@ccao.org.