

# **KNOW YOUR RIGHTS**

## **MEDICAL, DENTAL AND MENTAL HEALTH CARE**

### **ACLU National Prison Project**

**Important Note:** The law is always evolving. If you have access to a prison law library, it is a good idea to confirm that the cases and statutes cited below are still good law. The date at the bottom of this page indicates when this information sheet was last updated.

#### **Medical Care**

Prison officials are obligated under the Eighth Amendment to provide prisoners with adequate medical care.<sup>1</sup> This principle applies regardless of whether the medical care is provided by governmental employees or by private medical staff under contract with the government.<sup>2</sup>

In order to prevail on a constitutional claim of inadequate medical care, prisoners must show that prison officials treated them with "deliberate indifference to serious medical needs."<sup>3</sup>

#### ***What is deliberate indifference?***

A prison official demonstrates "deliberate indifference" if he or she recklessly disregards a substantial risk of harm to the prisoner.<sup>4</sup> This is a higher standard than negligence, and requires that the official *knows of and disregards* an excessive risk of harm to the prisoner.<sup>5</sup> The prison official does not, however, need to know of a specific risk from a specific source.<sup>6</sup>

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<sup>1</sup>Estelle v. Gamble, 429 U.S. 97, 103 (1976).

<sup>2</sup>West v. Atkins, 487 U.S. 42, 57-58 (1988); Richardson v. McKnight, 521 U.S. 399 (1997).

<sup>3</sup> Estelle, 429 U.S. at 104.

<sup>4</sup> Farmer v. Brennan, 511 U.S. 825, 836 (1994).

<sup>5</sup> Id. at 837.

<sup>6</sup> Id. at 843; Bradley v. Puckett, 157 F.3d 1022, 1025 (5<sup>th</sup> Cir. 1998).

Proof of prison officials' knowledge of a substantial risk to a prisoner's health can be proven by circumstantial evidence. For example, it may be inferred from "the very fact that the risk was obvious."<sup>7</sup> This circumstantial proof may be shown by deterioration in prisoners' health, such as obvious conditions like sharp weight loss. A prison official cannot "escape liability if the evidence showed that he merely refused to verify underlying facts that he strongly suspected to be true, or declined to confirm inferences of risk that he strongly suspected to exist."<sup>8</sup>

Officials' knowledge can also be proven by direct evidence. For example, prisoners might present sick call requests, medical records, complaints, formal grievances or other records reflecting: the nature of the complaint, the date of the complaint, the individuals to whom the complaint was made, the treatment provided, the adequacy of the treatment, the date the treatment was provided, the medical staff seen, the nature of follow-up care ordered and whether it was carried out, the effects of any delay in obtaining treatment, and any additional information relating to the complaint.

### ***What is a serious medical need?***

The Eighth Amendment prohibits the "unnecessary and wanton infliction of pain."<sup>9</sup> Some factors courts have considered in determining whether a "serious medical need" is at issue are "(1) whether a reasonable doctor or patient would perceive the medical need in question as important and worthy of comment or treatment; (2) whether the medical condition significantly affects daily activities; and (3) the existence of chronic and substantial pain."<sup>10</sup> Additionally, courts will be likely to find a "serious medical need" if a condition "has been diagnosed by a physician as mandating treatment or ... is so obvious that even a lay person would easily recognize the necessity of a doctor's attention."<sup>11</sup>

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<sup>7</sup> Farmer, 511 U.S. at 842.

<sup>8</sup> Id. at 843 n.8.

<sup>9</sup> Estelle v. Gamble, 429 U.S. at 104.

<sup>10</sup> Brock v. Wright, 315 F.3d 158, 162 (2<sup>nd</sup> Cir. 2003) (internal quotation marks omitted).

<sup>11</sup> Hill v. DeKalb Reg'l Youth Detention Ctr., 40 F.3d 1176, 1187 (11<sup>th</sup> Cir. 1994) (internal quotation marks, citation omitted).

A serious medical need is present whenever the failure to treat a prisoner's condition could result in further significant injury or the unnecessary and wanton infliction of pain."<sup>12</sup> Significant injury, pain or loss of function can constitute "serious medical needs" even if they are not life-threatening.<sup>13</sup> Pain can constitute a "serious medical need" even if the failure to treat it does not make the condition worse.<sup>14</sup> At least one court has held that pregnancy, at least in its later stages, constitutes a serious medical need.<sup>15</sup>

### **Elements of an adequate medical care system**

The Eighth Amendment requires that prison officials provide a system of ready access to adequate medical care. Prison officials show deliberate indifference to serious medical needs if prisoners are unable to make their medical problems known to the medical staff or if the staff is not competent to examine the prisoners, diagnose illnesses, and then treat or refer the patient.<sup>16</sup> The prison must also provide an adequate system for responding to emergencies. If outside facilities are too remote or

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<sup>12</sup> Clement v. Gomez, 298 F.3d 898, 904 (9<sup>th</sup> Cir. 2002).

<sup>13</sup> See Greeno v. Daley, 414 F.3d 645, 653 (7<sup>th</sup> Cir. 2005) (severe heartburn with frequent vomiting); Brock v. Wright, 315 F.3d 158, 163-64 (2<sup>nd</sup> Cir. 2003) (painful keloids); Clement v. Gomez, 298 F.3d 898 (9<sup>th</sup> Cir. 2002) (effects of pepper spray on bystanders); Ellis v. Butler, 890 F.2d 1001, 1003 (8<sup>th</sup> Cir. 1989) (swollen, painful knee); Pulliam v. Shelby County, 902 F. Supp. 797, 801-02 (W.D. Tenn. 1995) (denial of dilantin prescribed for seizure disorder); Chaney v. City of Chicago, 901 F.Supp. 266, 270 (N.D. Ill. 1995) (post-surgical care of foot); Bouchard v. Magnusson, 715 F.Supp. 1146, 1148 (D. Me. 1989) (persistent back pain); Smallwood v. Renfro, 708 F. Supp. 182, 187 (N.D. Ill. 1989) (cut lip); Henderson v. Harris, 672 F.Supp. 1054, 1059 (N.D. Ill. 1987) (hemorrhoids); Case v. Bixler, 518 F.Supp. 1277, 1280 (S.D. Ohio 1981) (boil).

<sup>14</sup> See Boretti v. Wiscomb, 930 F.2d 1150, 1154 (6<sup>th</sup> Cir. 1991) (denial of dressing and pain medication for wound); Ellis v. Butler, 890 F.2d 1001, 1003 (8<sup>th</sup> Cir. 1989) (nurse's failure to deliver pain medication); Washington v. Dugger, 860 F.2d 1018, 1021 (11<sup>th</sup> Cir. 1988) (denial of treatments that could "eliminate pain and suffering at least temporarily"); H.C. v. Jarrard, 786 F.2d 1080, 1083, 1086 (11<sup>th</sup> Cir. 1986) (denial of medical care for injured shoulder was unconstitutional, although no permanent injury resulted); Lavender v. Lampert, 242 F.Supp.2d 821 (D. Or. 2002) (failure to provide pain medication for partial spastic paralysis of the foot).

<sup>15</sup> Doe v. Gustavus, 294 F.Supp.2d 1003, 1008 (E.D.Wis. 2003).

<sup>16</sup> Such referrals may be to other physicians within the prison, or to physicians or facilities outside the prison if reasonably speedy access exists.

too inaccessible to handle emergencies promptly and adequately, then the prison must provide adequate facilities and staff to handle emergencies within the prison.<sup>17</sup>

A mere difference of medical judgment is not actionable.<sup>18</sup> But the decisions of prison doctors are not per se unassailable.<sup>19</sup> In general, the prisoner must be able to show that the actions of medical staff could not be supported by legitimate medical judgment.

Some examples of actionable harm from inadequate medical care include:

- Serious denials or delay in access to medical personnel.<sup>20</sup>
- A denial of access to appropriately qualified health care personnel.<sup>21</sup>
- A failure to inquire into facts necessary to make a professional judgment.<sup>22</sup>
- A failure to carry out medical orders.<sup>23</sup>

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<sup>17</sup> Hoptowitz v. Ray, 682 F.2d 1237, 1252-53 (9<sup>th</sup> Cir. 1982).

<sup>18</sup> Stewart v. Murphy, 174 F.3d 530, 535 (5<sup>th</sup> Cir. 1999).

<sup>19</sup> See, e.g., Greeno v. Daley, 414 F.3d 645 (7<sup>th</sup> Cir. 2005) (“a prisoner is not required to show that he was literally ignored”); Hunt v. Uphoff, 199 F.3d 1220, 1223-24 (10<sup>th</sup> Cir. 1999) (one doctor denied insulin prescribed by another doctor); Miller v. Schoenen, 75 F.3d 1305 (8<sup>th</sup> Cir. 1996) (recommendations from outside hospitals not followed).

<sup>20</sup> Estelle v. Gamble, 429 U.S. at 104; Weyant v. Okst, 101 F.3d 845, 856-57 (2<sup>nd</sup> Cir. 1996) (delay of hours in getting medical attention for diabetic in insulin shock); Natale v. Camden County Correctional Facility, 318 F.3d 575 (3<sup>rd</sup> Cir. 2003) (delay of 21 hours in providing insulin to diabetic); Wallin v. Norman, 317 F.3d 558 (6<sup>th</sup> Cir. 2003) (delay of one week in treating urinary tract infection, and one day in treating leg injury); Murphy v. Walker, 51 F.3d 714, 719 (7<sup>th</sup> Cir. 1995) (two-month delay in getting prisoner with head injury to a doctor).

<sup>21</sup> LeMarbe v. Wisneski, 266 F.3d 429 (6<sup>th</sup> Cir. 2001), cert. denied, 535 U.S. 1056 (2002) (failure of surgeon to send patient to a specialist); Mandel v. Doe, 888 F.2d 783, 789-90 (11<sup>th</sup> Cir. 1989) (physician’s assistant failed to diagnose broken hip, refused to order x-ray, and prevented prisoner from seeing a doctor); Washington v. Dugger, 860 F.2d 1018, 1021 (11<sup>th</sup> Cir. 1988) (failure to return prisoner to VA hospital for treatment of Agent Orange exposure); Toussaint v. McCarthy, 801 F.2d 1080, 1112 (9<sup>th</sup> Cir. 1986) (rendering of medical services by unqualified personnel is deliberate indifference).

<sup>22</sup> Liscio v. Warren, 901 F.2d 274, 276-77 (2<sup>nd</sup> Cir. 1990) (physician failed to inquire into the cause of arrestee’s delirium and thus failed to diagnose alcohol withdrawal); Miltier v. Beorn, 896 F.2d 848, 853 (4<sup>th</sup> Cir. 1990) (doctor failed to perform tests for cardiac disease in patient with symptoms that called for them); Inmates of Occoquan v. Barry, 717 F. Supp. 854, 867-68 (D.D.C. 1989) (failure to perform adequate health screening on intake).

- Reliance on non-medical factors in making treatment decisions.<sup>24</sup>
- Judgment so egregiously bad that it really isn't medical.<sup>25</sup>

## Dental Care

Dental care of prisoners is governed by the same constitutional standard of deliberate indifference as is medical care.<sup>26</sup>

“Dental care is one of the most important medical needs of inmates.”<sup>27</sup> Dental care that consists of pulling teeth that can be saved is constitutionally inadequate.<sup>28</sup> Delays in dental care can also violate the Eighth Amendment, particularly if the prisoner is suffering pain in the interim.<sup>29</sup> Prolonged deprivation of toothpaste can violate the

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<sup>23</sup> Estelle v. Gamble, 429 U.S. at 105 (“intentionally interfering with treatment once prescribed”); Lawson v. Dallas County, 286 F.3d 257 (5<sup>th</sup> Cir. 2002) (failure to follow medical orders for care of paraplegic prisoner); Walker v. Benjamin, 293 F.3d 1030 (7<sup>th</sup> Cir. 2002) (refusal to provide prescribed pain medication); Koehl v. Dalsheim, 85 F.3d 86, 88 (2<sup>nd</sup> Cir. 1996) (denial of prescription eyeglasses); Erickson v. Holloway, 77 F.3d 1078, 1080 (8<sup>th</sup> Cir. 1996) (officer’s refusal of emergency room doctor’s request to admit the prisoner and take x-rays); Boretti v. Wiscomb, 930 F.2d 1150, 1156 (6<sup>th</sup> Cir. 1991) (nurse’s failure to perform prescribed dressing changes).

<sup>24</sup> Boswell v. Sherburne County, 849 F.2d 1117, 1123 (8<sup>th</sup> Cir. 1988) (budgetary restrictions); Jones v. Johnson, 781 F.2d 769, 771 (9<sup>th</sup> Cir. 1986) (same); Ancata v. Prison Health Services, Inc., 769 F.2d 700, 704-05 (11<sup>th</sup> Cir. 1985) (refusal to provide specialty consultations without a court order); Wilson v. VanNatta, 291 F.Supp.2d 811, 816 (N.D. Ind. 2003) (cost).

<sup>25</sup> Greeno v. Daley, 414 F.3d 645, 654 (7<sup>th</sup> Cir. 2005) (treatment “so blatantly inappropriate as to evidence intentional mistreatment likely to seriously aggravate [plaintiff’s] condition”); id. at 655 (“doggedly persist[ing] in a course of treatment known to be ineffective”); Adams v. Poag, 61 F.3d 1537, 1543-44 (11<sup>th</sup> Cir. 1995) (medical treatment that is “so grossly incompetent, inadequate, or excessive as to shock the conscience” constitutes deliberate indifference); Hughes v. Joliet Correctional Ctr., 931 F.2d 425, 428 (7<sup>th</sup> Cir. 1991) (evidence that medical staff treated the plaintiff “not as a patient, but as a nuisance”).

<sup>26</sup> Hoptowit v. Ray, 682 F.2d 1237, 1253 (9<sup>th</sup> Cir. 1982).

<sup>27</sup> Ramos v. Lamm, 639 F.2d 559, 576 (10<sup>th</sup> Cir. 1980); accord Wynn v. Southward, 251 F.3d 588, 593 (7<sup>th</sup> Cir. 2001); Hunt v. Dental Dept., 865 F.2d 198, 200 (9<sup>th</sup> Cir. 1989).

<sup>28</sup> Chance v. Armstrong, 143 F.3d 698, 700-02 (2<sup>nd</sup> Cir. 1998); Dean v. Coughlin, 623 F. Supp. 392, 405 (S.D.N.Y. 1985); Heitman v. Gabriel, 524 F. Supp. 622, 627 (W.D. Mo. 1981).

<sup>29</sup> Hartsfield v. Colburn, 371 F.3d 454, 457 (8<sup>th</sup> Cir. 2004) (six weeks); Canell v. Bradshaw, 840 F. Supp. 1382, 1387, 1393 (D. Or. 1993), aff’d, 97 F.3d 1458 (9<sup>th</sup> Cir. 1996) (several days); Fields v. Gander, 734

Eighth Amendment.<sup>30</sup> One court has held that some minimal level of prophylactic dental care is constitutionally required.<sup>31</sup>

### **Mental Health Care**

Mental health care of prisoners is governed by the same constitutional standard of deliberate indifference as is medical care. A “severe” mental illness is one “that has caused significant disruption in an inmate’s everyday life and which prevents his functioning in the general population without disturbing or endangering others or himself.”<sup>32</sup>

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F.2d 1313, 1315 (8<sup>th</sup> Cir. 1984) (three weeks); Farrow v. West, 320 F.3d 1235 (11<sup>th</sup> Cir. 2003) (fifteen-month delay in providing dentures).

<sup>30</sup> Board v. Farnham, 394 F.3d 469 (7<sup>th</sup> Cir. 2005).

<sup>31</sup> Barnes v. Government of Virgin Islands, 415 F.Supp. 1218, 1235 (D.V.I. 1976).

<sup>32</sup> Tillery v. Owens, 719 F.Supp. 1256, 1286 (W.D. Pa. 1989), aff’d, 907 F.2d 418 (3<sup>rd</sup> Cir. 1990).

## Elements of an adequate mental health care system

The Eighth Amendment requires that prison officials provide a system of ready access to adequate mental health care. First, there must be a systematic program for screening and evaluating inmates in order to identify those who require mental health treatment. Second, treatment must entail more than segregation and close supervision of the inmate patients. Third, treatment requires the participation of trained mental health professionals, who must be employed in sufficient numbers to identify and treat in an individualized manner those treatable inmates suffering from serious mental disorders. Fourth, accurate, complete, and confidential records of the mental health treatment process must be maintained. Fifth, prescription and administration of behavior-altering medications in dangerous amounts, by dangerous methods, or without appropriate supervision and periodic evaluation, is an unacceptable method of treatment. Sixth, a basic program for the identification, treatment and supervision of inmates with suicidal tendencies is a necessary component of any mental health treatment program.<sup>33</sup>

Some examples of actionable harm from inadequate mental health care include:

- Lack of adequate mental health screening on intake.<sup>34</sup>
- Failure to follow up on prisoners with known or suspected mental health disorders.<sup>35</sup>

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<sup>33</sup> Ruiz v. Estelle, 503 F.Supp. 1265, 1339 (S.D. Tex. 1980) (citations omitted), aff'd in part and rev'd in part on other grounds, 679 F.2d 1115 (5<sup>th</sup> Cir.), amended in part and vacated in part, 688 F.2d 266 (5<sup>th</sup> Cir. 1982); accord Balla v. Idaho State Bd. of Corrections, 595 F.Supp. 1558, 1577 (D. Idaho 1984); Coleman v. Wilson, 912 F.Supp. 1282, 1298 n.10 (E.D. Cal. 1995).

<sup>34</sup> Woodward v. Correctional Medical Servs., 368 F.3d 917 (7<sup>th</sup> Cir. 2004); Gibson v. County of Washoe, 290 F.3d 1175, 1189 (9<sup>th</sup> Cir. 2002), cert. denied, 537 U.S. 1106 (2003); Inmates of Occoquan v. Barry, 717 F.Supp. 854, 868 (D.D.C. 1989); Inmates of the Allegheny County Jail v. Pierce, 487 F.Supp. 638, 642, 644 (W.D. Pa. 1980).

<sup>35</sup> Woodward v. Correctional Medical Servs., 368 F.3d 917 (7<sup>th</sup> Cir. 2004) (failure to respond to signs that prisoner was suicidal); De'Lonta v. Angelone, 330 F.3d 630 (4<sup>th</sup> Cir. 2003) (failure to treat prisoner's compulsion to self-mutilate); Olsen v. Bloomberg, 339 F.3d 730 (8<sup>th</sup> Cir. 2003) (failure to take reasonable steps to prevent prisoner suicide); Cavalieri v. Shepard, 321 F.3d 616, 621-22 (7<sup>th</sup> Cir.), cert. denied, 540 U.S. 1003 (2003) (failure to respond to warnings that prisoner was suicidal); Comstock v. McCrary, 273 F.3d 693 (6<sup>th</sup> Cir. 2001), cert. denied, 537 U.S. 817(2002); Sanville v. McCaughtrey, 266 F.3d 724, 738 (7<sup>th</sup> Cir. 2001); Waldrop v. Evans, 871 F.2d 1030, 1036 (11<sup>th</sup> Cir. 1989); Arnold v. Lewis, 803 F.Supp. 246, 257-

- Failure to provide adequate numbers of qualified mental health staff.<sup>36</sup>
- Housing mentally ill prisoners in segregation or “supermax” units.<sup>37</sup>
- Failure to transfer seriously mentally ill prisoners to more appropriate facilities.<sup>38</sup>
- Improper use of restraints.<sup>39</sup>
- Excessive use of force against mentally ill prisoners.<sup>40</sup>
- Lack of training of custody staff in mental health issues.<sup>41</sup>

## Medical Billing

Many prisons across the country charge inmates for basic medical care as a way to cut costs and discourage prisoners who abuse sick call. The government, however, still has an obligation to provide medical care for prisoners.<sup>42</sup> One court has expressed the

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58 (D. Ariz. 1992).

<sup>36</sup> Waldrop v. Evans, 871 F.2d 1030, 1036 (11<sup>th</sup> Cir. 1989) (non-psychiatrist was not qualified to evaluate significance of prisoner’s suicidal gesture); Cabralles v. County of Los Angeles, 864 F.2d 1454, 1461 (9<sup>th</sup> Cir. 1988), vacated, 490 U.S. 1087 (1989), reinstated, 886 F.2d 235 (9<sup>th</sup> Cir. 1989); Wellman v. Faulkner, 715 F.2d 269, 272-73 (7<sup>th</sup> Cir. 1983) (“a psychiatrist is needed to supervise long term maintenance” on psychotropic medication); Ramos v. Lamm, 639 F.2d 559, 577-78 (10<sup>th</sup> Cir. 1980).

<sup>37</sup> Jones’El v. Berge, 164 F.Supp.2d 1096 (W.D. Wis. 2001); Ruiz v. Johnson, 37 F.Supp.2d 855, 913-15 (S.D. Tex. 1999), rev’d on other grounds, 243 F.3d 941 (5<sup>th</sup> Cir. 2001), adhered to on remand, 154 F.Supp.2d 975 (S.D. Tex. 2001); Coleman v. Wilson, 912 F.Supp. 1282, 1320-21 (E.D. Cal. 1995); Madrid v. Gomez, 889 F.Supp. 1146, 1265-66 (N.D. Cal. 1995); Casey v. Lewis, 834 F.Supp. 1477, 1549-50 (D. Ariz. 1993); Finney v. Mabry, 534 F.Supp. 1026, 1036-37 (E.D. Ark. 1982); see also Gates v. Cook, 376 F.3d 323, 343 (5<sup>th</sup> Cir. 2004) (noting evidence that “the isolation and idleness of Death Row combined with the squalor, poor hygiene, temperature, and noise of extremely psychotic prisoners create an environment ‘toxic’ to the prisoners’ mental health”).

<sup>38</sup> Morales Feliciano v. Rossello Gonzalez, 13 F.Supp.2d 151, 209, 211 (D.P.R. 1998); Madrid, 889 F.Supp. at 1220; Coleman, 912 F.Supp. at 1309; Arnold v. Lewis, 803 F.Supp. 247, 257 (D. Ariz. 1992).

<sup>39</sup> Wells v. Franzen, 777 F.2d 1258, 1261-62 (7<sup>th</sup> Cir. 1985); Campbell v. McGruder, 580 F.2d 521, 551 (D.C. Cir. 1978).

<sup>40</sup> Coleman, 912 F.Supp. at 1321-23; Kendrick v. Bland, 541 F.Supp. 21, 25-26 (W.D. Ky. 1981).

<sup>41</sup> Olsen v. Layton Hills Mall, 312 F.3d 1304, 1319-20 (10<sup>th</sup> Cir. 2002).

<sup>42</sup> Estelle, 429 U.S. 97 (1976); see also DeShaney v. Winnebago County Dep’t of Social Servs., 489 U.S. 189, 199-200 (1989) (“[W]hen the State by the affirmative exercise of its power so restrains an individual’s liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic

belief that medical billing policies requiring prisoners to pay for care may be unconstitutional.<sup>43</sup> But most courts have found co-pay and over-the-counter (OTC) policies constitutional as long as prisoners are not deprived of needed care because of their inability to pay.<sup>44</sup> When a billing policy prevents a prisoner from receiving adequate health care because the prisoner cannot pay, courts will be more likely to conclude that the policy is unconstitutional.<sup>45</sup>

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human needs – e.g., food, clothing, shelter, medical care, and reasonable safety – it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.”).

<sup>43</sup> See Collins v. Romer, 962 F.2d 1508 (10<sup>th</sup> Cir. 1992).

<sup>44</sup> See Reynolds v. Wagner, 128 F.3d 166 (3<sup>rd</sup> Cir. 1997) (charging inmates for medical care is not per se unconstitutional; deterrent effect did not violate the Eighth Amendment or Due Process Clause); Gardner v. Wilson, 959 F. Supp. 1224, 1228 (C.D. Cal. 1997); Bihms v. Klevenhagen, 928 F.Supp. 717, 718 (S.D. Tex. 1996) (no constitutional right is implicated by the state seeking compensation for costs of maintaining prisoners); Hudgins v. De Bruyn, 922 F.Supp. 144 (S.D. Ind. 1996); Johnson v. Department of Public Safety & Correctional Servs., 885 F.Supp. 817 (D. Md. 1995) (co-pay system bore rational relationship to legitimate prison goal of efficient use of resources and promoting inmate responsibility, and therefore was not unconstitutional).

<sup>45</sup> See, e.g., Martin v. DeBruyn, 880 F.Supp. 610, 615 (N.D. Ind. 1995) (“[a] prison official violates the Eighth Amendment by refusing to provide [over-the-counter] medicine for a serious medical need only if the inmate lacks sufficient resources to pay for the medicine. If the inmate can afford the medicine but chooses to apply his resources elsewhere, it is the inmate, and not the prison official, who is indifferent to serious medical needs.”).