§ 43.03 Liability for fees.

(a) The patient, his estate, his spouse, his parents or his legal guardian if he is under twenty-one years of age, and his committee and any fiduciary or representative payee holding assets for him or on his behalf are jointly and severally liable for the fees for services rendered to the patient. Parents or spouses of parents are not liable for the fees for services rendered to a disabled child under twenty-one years of age, who does not share the common household even if the child returns to the common household for periodic visits. For purposes of this section a child is considered disabled if she/he meets the definition of a blind or disabled child under regulations prescribed by the social security act for medical assistance.

(b) The commissioner may reduce or waive fees in cases of inability to pay or other reason. If the commissioner discovers that assets existing at the time of determination were not disclosed because of fraud or negligence, the department may collect the difference between the amount paid and the actual cost of services. The acceptance of less than the full fee or the waiver of a fee or any part thereof shall not be construed to release a patient, his estate, committee or guardian, the trustee of a fund established for his support, or any fiduciary or payee of funds for or on behalf of a patient from liability for payment of the full fee.

(c) Patients receiving services while being held pursuant to order of a criminal court, other than patients committed to the department pursuant to section 330.20 of the criminal procedure law, or for examination pursuant to an order of the family court shall not be liable to the department for such services. Fees due the department for such services shall be paid by the county in which such court is located except that counties shall not be responsible for the cost of services rendered patients committed to the department pursuant to section 330.20 of the criminal procedure law or patients committed to the department pursuant to article ten of this chapter.

(d) The trustee of a supplemental needs trust for the benefit of a patient, which trust conforms to the provisions of section 7-1.12 of the estates, powers and trusts law, shall not be deemed to be holding assets for the patient or on his or her behalf, as described in such section 7-1.12. As such, neither the trust nor the trustee shall be liable for

the fees for services rendered to the patient.

(e) Notwithstanding any other provision of this section, the commissioner shall not collect any fees for services from any monies paid to or to be paid to or on behalf of a patient, his estate or a representative of a patient or his estate, as a result of or in return for a release of liability or a court ordered settlement or judgment against the state arising from an act or omission of the state, the office or any employee or agent thereof, if such act or omission occurred during the course of confinement of or during the provision of care to such patient. Such monies shall not be offset or otherwise encumbered for the purpose of paying such fees.