Charity Care 101

Financial Assistance Requirements for Washington State Hospitals

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Today’s Presenters

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Content of webcast is informational and not legal advice.

Please consult legal counsel for specific guidance.
Today’s Learning Objectives

• Understand charity care and hospital obligations

• Understand legal, financial, and reputational considerations

• Consider implications of COVID-19 pandemic
What is “charity care”?

What does my hospital need to be doing?
Definition of Charity Care in Washington State Law

"Charity care" means
• Medically necessary hospital health care

• Rendered to indigent persons

• When third-party coverage, if any, has been exhausted,

• To the extent that the persons are unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

RCW 70.170.020(4)
So What Does That Mean?

All hospitals in Washington State

Must provide free or discounted hospital services

To “indigent” patients (based on family size & income)

Must clearly and consistently provide public information about charity care
**Terminology note**

“Charity care” is the term used in state law
- Technical and legal term
- Can confuse patients or be perceived as derogatory

“Financial assistance” is the term many hospitals use (some use both)
- Covers additional assistance programs
- More approachable
Charity Care

All hospitals in Washington State

Requirement for all hospitals licensed in Washington State

- Acute care hospitals
- Psychiatric hospitals
- Not-for PROFITS
- For-profits
- Public hospital districts
- Critical access hospitals

Funded by hospitals

No state or federal funding source

How much is required?

No threshold or required amount
Obligation based on patients’ needs
Charity Care

**Applies to most hospital services**
- Applies to most care provided at a facility under the hospital’s license
- Includes a wide array of services - not just emergencies or surgeries
- Applies to facility bills, not necessarily professional bills (although some providers opt in)

**Cannot restrict access to charity care**
- Hospitals cannot have policies that restrict access based on inability to pay or policies which significantly reduce charity care.
- Patients are eligible for charity care even if a debt has been sent to collections
- Available to insured and uninsured

**“Medically necessary hospital health care”**
- “Reasonably calculated to diagnose, correct, cure, alleviate, or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction...”

There is no application deadline in statute.
## Charity Care

### When is a patient “indigent”? 

- Has exhausted third-party sources of payment
- Family income meets threshold (based on Federal Poverty Level):
  - At or below 200% of federal poverty level; or
  - “Otherwise not sufficient to enable them to pay for care...or coinsurance”
- Income-based (not a broad consideration finances)

### Definition of “family” 

- Group of two or more persons related by birth, marriage, or adoption who live together.
- Different than federal tax definitions or other state law definitions of “family”

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WAC 246-453-010
Charity Care

To “indigent” patients (based on family size & income)

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Qualifying Patient</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-100% FPL</td>
<td>Law/Pledge: Full write off</td>
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</table>
| 101-200% FPL       | Law: Sliding scale discount
                  | Pledge: Discounts to reflect cost of care                                         |
| 201-300% FPL       | Pledge: Discounts off charges to reflect 130% cost of care for uninsured
                  | (apply overall cost-to-charge ratio)                                              |

Can provide more generous discounts – many policies go to 400% or above

Per hospital policy

100% Federal Poverty Level (2020): $12,760 (single person), $26,200 (family of four)

[https://aspe.hhs.gov/poverty-guidelines](https://aspe.hhs.gov/poverty-guidelines)
2007 Voluntary Pledge – Board/Commissioner Role

Collections Practices

- Hospital governing board/commissioners will receive and review an annual summary report on collections actions
- Hospitals shall have written policy regarding when accounts are sent to collections and collections actions

Discounts

- Those under 200% FPL pay no more than the estimated cost of their charges (cost is the charge times the hospital’s average cost-to-charge ratio)
- Those under 300% FPL pay no more than 130% estimated cost of their charges (cost is the charge times the hospital’s average cost-to-charge ratio)
- Pledge applies to uninsured; many hospitals apply to underinsured
Charity Care

All persons with family income below one hundred percent of the federal poverty standard shall be deemed charity care patients for the full amount of hospital charges, except to the extent the patient has third-party coverage for those charges.”

RCW 70.170.060

“Notice shall be made publicly available that charges for services provided to those persons meeting the criteria established within WAC 246-453-040 may be waived or reduced.”

WAC 246-453-020

“"Publicly available" means posted or prominently displayed within public areas of the hospital, and provided to the individual in writing and explained, at the time that the hospital requests information from the responsible party with regard to the availability of any third-party coverage, in any language spoken by more than ten percent of the population in the hospital's service area, and interpreted for other non-English speaking or limited-English speaking or other patients who can not read or understand the writing and explanation”

WAC 246-453-010
Charity Care

Must clearly and consistently provide public information about charity care

**Signage**
Hospitals must “post and prominently display” notice of charity care availability in at least the following locations:
- Areas where patients are admitted or registered
- Emergency departments
- Financial service or billing areas where accessible to patients.

**Interpretation**
- Notice must be posted in all languages spoken by more than ten percent of the population of the hospital service area.
- Federal and state translation obligations apply.

**Billing & Collections**
- Include information the first page of billing and collections communications in English and Spanish (or the second most spoken language in area):
  - “You may qualify for free care or a discount on your hospital bill, whether or not you have insurance. Please contact our financial assistance office at [web site] and [phone number].”

**Hospital website**
- Current charity care policy
- Plain language summary of the policy
- Hospital’s charity care application
Charity Care

- Hospitals must submit revised charity care policies to DOH at least 30 days before the policies are effective.

RCW 70.170.080 and WAC 246-453-070 require hospitals to submit charity care policies, procedures and sliding fee schedules to the department for review and approval. The following table contains the approved charity care policies currently on file.

Submit charity care policies to CharityCare@doh.wa.gov.
Charity Care

- Hospital must develop standardized staff training on the hospital’s charity care policy and how to use interpreter services
- Training must be provided regularly
- Train “appropriate staff” including those working in registration, admissions, & billing

Note: Billing/financial staff need more detailed education
# Debt and Collections

## Interest limits in Washington
- Medical debt limited to 9% prejudgment interest
- Consumer debt (which includes medical debt) limited to 9% post-judgment interest

## Waiting period before medical debt sent to collections
- Must wait 120 days after the first bill is transmitted before sending medical debt to collections (assignment or sale)

## Collections agencies obligations to provide
- Information about charity care if collecting medical debt
- Itemized information
- Notice of charity care and hospital contact information
- Cease collections during pendency of charity care application and process
Legal, Financial, and Reputational Considerations
Legal Obligations and Penalties for Noncompliance

**State law**
- **Obligations**: RCW 70.170; WAC 246-453
- **Penalties**
  - DOH enforcement; civil and criminal penalties
  - AGO enforcement: Consumer Protection Act (includes treble damages)

**Federal law**
- **Obligations**: 501(r) IRS Code
  - *ONLY for 501(c)(3) nonprofits*
- **Penalties**
  - IRS audits
  - Loss of tax-exempt status
- **More on 501(r) in a future webinar**

**Lawsuits** – individuals, class actions, AGO
Attention to Charity Care (and Overall Cost of Health Care)
Areas of Concern

- Reliance on out-of-state consultants
- Lack of notice and communication
- Billing and collections
- Lack of language access
- Burdensome documentation/process requirements
- Lack of eligibility screening
Common Questions

• Can hospitals deny charity care because the patient waited a couple years to apply? **NO**

• Do patients have to make good faith efforts to pay in order to apply for charity care? **NO**

• Can hospitals require income documentation? **YES (but limited)**

• Can a patient be denied charity care if the debt is turned over to collections? **NO**

• Can hospitals require patients to complete an application and provide income verification? **YES**

• Can hospitals ask patients to pay before being considered for charity care? **NO**

• Do hospitals only have to tell people about charity care when they ask for help? **NO**
Charity Care and COVID-19
Increasing Uninsured Population

Figure 2. Uninsured Adults 18-64 in Washington (Number and Percentage) 2018, 2019, 2020 (prior to COVID-19), Week Ending 5/2/2020

Figure 5. Percent Change of County Uninsured Rates in 2020, Washington: From Pre-COVID-19 to Week Ending 5/2/2020
Hospitals Taking Financial Hit

Washington hospitals, community health centers face a new crisis: red ink

May 4, 2020 at 6:00 am

New AHA Report Finds Financial Impact of COVID-19 on Hospitals and Health Systems to Be Over $200 Billion through June

COVID-19 puts rural hospitals in Eastern Washington on brink of financial collapse

UPDATED: Mon., April 20, 2020

It could take years for Washington state’s economy to rebound from coronavirus crash

May 10, 2020 at 6:01 am
Charity Care and Financial Assistance Obligations Remain

• No state or federal law waivers modify charity care or 501(r) requirements

• EMTALA exemptions specifically state financial considerations may not be a factor in determining a patient’s course of care

• Scrutiny may increase as uninsured and financially vulnerable populations grow
WSHA Resources
WSHA is Here to Help

Available WSHA Resources

• Standard application form
• Standard communication plan
• Model plain language summary
• Regulatory and legislative advocacy
  • Advocacy lead to generally positive changes in 2018
  • Ongoing agency rulemaking
• Staff education guidance
• Consultation to hospital staff on questions
• Model signage
• Direct patient calls to hospital contacts
WSHA is Here to Help

Charity Care and Financial Assistance at Washington State Hospitals

Washington's hospitals are committed to ensuring patients get the hospital care they need regardless of their ability to pay for that care. Charity care eligibility is based on family size and income. Providing health care to those that cannot afford to pay is part of the mission of Washington's hospitals. State law requires hospitals to provide free and discounted inpatient and outpatient care. Each hospital is responsible for maintaining its own charity care program.

- Charity Care Information for Patients
- Charity Care Information for Hospitals
- Other Resources

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Thank you

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