



THE HOSPITAL & HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA

CHARITY CARE
AND
FINANCIAL AID GUIDELINES
FOR
PENNSYLVANIA
HOSPITALS

JULY 2004



Hospitals and the Uninsured: Statement of the Issue

Pennsylvania hospitals and health systems have a long history of addressing charity care and financial aid responsibilities through their health care missions in their communities and compliance with Hill-Burton funding, federal tax-exempt status, Act 55 of 1997 (the Institutions of Purely Public Charity Act), and Act 77 of 2001 (the Tobacco Settlement Act) requirements. Providing charity care to indigent patients is only one aspect of the current intricate health care system that includes government funding for some patients (Medicare and Medicaid), private commercial insurance funding for others, and at times, inadequate funding for services even when insurance is available. An ever-increasing number of other patients with no form of insurance to help pay for their hospital care must also be treated.

To receive funds for uncompensated care or extraordinary expenses under Act 77, Pennsylvania hospitals and health systems must provide attestation statements to the Department of Public Welfare on an annual basis affirming the existence of their charity care program, their efforts to seek collection for all claims, and attempts to obtain health coverage for patients, particularly the uninsured. As a result, state law requires hospitals and health systems to continue to carefully review their charity care policies. In addition, hospitals maintain open admission policies consistent with the requirements for their federal tax-exempt status, and comply with Emergency Medical Treatment and Labor Act (EMTALA) requirements to conduct medical screening exams for individuals that seek emergency treatment and to provide stabilizing medical treatment when an emergency medical condition is identified. Moreover, non-profit hospitals are and have always been mindful of their obligations under their missions and the law governing their tax-exempt status, including the Institutions of Purely Public Charity Act, to provide adequate charity care and financial assistance.

Hospitals and health systems conduct periodic reviews of their charity care and financial aid policies to ensure that they are meeting the needs of both the indigent and the uninsured in their communities while at the same time attempting to balance that responsibility with the financial and staffing resources available to meet the various needs of their entire communities. The American Hospital Association (AHA) and the Healthcare Financial Management Association (HFMA) have provided guidance to hospitals and health systems on charity care and financial aid policies. The Board of Directors of The Hospital & Healthsystem Association of Pennsylvania (HAP) has worked with HAP's CFO Advisory Group, Committee on Public Payor Policy, and Trustee Leadership Steering Committee to develop the following guidance for Pennsylvania hospitals and health systems. This guidance incorporates national and state-specific guidance.

HAP will continue to review these guidelines, and modify them as necessary, to assist Pennsylvania hospitals in maintaining charity care and financial aid guidelines that meet the needs of Commonwealth residents and comply with applicable laws and regulations.

Overall Principles

- Concern over a hospital bill should never prevent any individual from receiving emergency health services. Hospitals should communicate this message clearly to prospective patients and to local community service agencies, and make it clear that emergency services will be provided without regard to ability to pay.
- Hospitals should assist patients in obtaining health insurance coverage from privately and publicly funded sources whenever appropriate.
- Hospitals should have charity care and financial aid policies and practices that are consistent with their missions and values, and with federal and state law, and that take into account each individual's ability to contribute to the cost of his or her care, as well as the hospital's financial ability to provide the care.
- Financial aid policies should be clear, understandable, and communicated in a manner that is dignified and in languages appropriate to the communities and patients served. These policies should be made readily available to prospective and current patients and to the community at large.
- Debt collections policies—by both hospital staff and external collections agencies—should reflect the mission and values of the hospital, and should be monitored carefully to avoid unintended consequences.

Current Pennsylvania Requirements
Act 77 of 2001
The Tobacco Settlement Act

Hospitals must:

- 1) Submit annual attestation statements to the Department of Public Welfare affirming the existence of their charity care program, their efforts to seek collection for all claims, and attempts to obtain health care coverage for patients. Virtually all hospitals in Pennsylvania have complied with this requirement for the past two years.
- 2) Have a charity care policy that addresses:
 - Patient eligibility for other public or private coverage.
 - Income eligibility threshold based on family size.
 - Consideration of other resources available to a patient or responsible party.

- Patient or responsible party employment status and earning capacity.
- Other financial obligations of the patient or responsible party.
- Other sources of funds available to the hospital such as endowments or donations specified for charity care.

3) Have a plan in place to serve the uninsured and:

- Accept all individuals, regardless of their ability to pay, for emergency medical screening and for stabilization services, as necessary, within the scope of the hospital's capabilities and capacity.
- Seek collection of a claim, including collection from an insurer or payment arrangements with the person who is responsible for payment of the care rendered.
- Attempt to obtain health care coverage for patients, including assisting patients in applying for Medical Assistance, the Children's Health Insurance Program (CHIP), or the AdultBasic coverage insurance program.
- Ensure that an emergency admission or treatment is not delayed or denied pending determination of coverage or requirement for prepayment or deposit.
- Post adequate notice of the availability of medical services and the general obligation of the hospital to provide charity care.

Most of the Tobacco Settlement Act requirements are compatible with the Hill-Burton requirements already in place at many hospitals.

**Current Pennsylvania Tax-Exemption
Requirements
Act 55 of 1997 The Institutions of
Purely Public Charity Act**

To qualify for tax-exemption under state law, Pennsylvania hospitals must:

- Advance a charitable purpose.
- Donate or render gratuitously a substantial portion of its services.
- Benefit a substantial and indefinite class of persons who are legitimate subjects of charity.
- Relieve the government of some of its burden.
- Operate entirely free from private profit motive.

Federal Tax Exemption Requirements

Federal tax law provides § 501(c)(3) tax-exempt status to any organization that is organized and operates for charitable purposes. The provision of health care services by non-profit hospitals has long been recognized as a charitable activity for this purpose. The “community benefit” standard established by the IRS in a 1969 revenue ruling continues to be the primary standard applied by the IRS in determining whether hospitals qualify for 501(c)(3) status, even though a number of recent developments suggest that there is some dissatisfaction within the IRS and other parts of the government with the use of the “community benefit” standard as it is described in that revenue ruling as representing the only requirement for qualification of a hospital as a § 501(c)(3) organization.

The “community benefit” standard does not prescribe any minimum “charity care” requirement as one of its elements. The 1969 revenue ruling that established the “community benefit” standard essentially replaced a 1956 revenue ruling in which the IRS had established a “financial ability” standard as a requirement for § 501(c)(3) status. Under the “financial ability” standard, a hospital had to be operated to the extent of its “financial ability” for those not able to pay for the services rendered, and not exclusively for those who are able and expected to pay. The 1956 revenue ruling illustrated that the “financial ability” was somewhat flexible by stating that the fact that a particular hospital’s record in providing charity care was relatively low was not conclusive in showing a failure to meet that standard. Moreover, the 1969 revenue ruling, which promulgated the “community benefit” standard, expressly modified the 1956 revenue ruling to eliminate the “financial ability” requirement.

In spite of the clearly-stated legal position of the IRS with regard to satisfaction of the “community benefit” standard as the standard governing the qualification of hospitals under § 501(c)(3), recent developments, including the litigation position of the government in recent cases involving the § 501(c)(3) status of hospitals, and recent congressional hearings demonstrating an interest in the provision of charity care by hospitals and in the billing and collection activities of some hospitals in cases involving uninsured patients, clearly suggest the need to carefully address, and effectively implement, thoughtful policies concerning the provision of reasonable amounts of charity care and care to the uninsured in appropriate circumstances.

Guidelines

Eligibility for Financial Aid

Financial aid is intended to assist low-income, uninsured individuals who do not otherwise have the ability to pay fully for medically necessary health care as prescribed by their physician and as determined by the hospital's qualification criteria. Hospitals should take into account each individual's ability to pay for the cost of his or her medically necessary hospital care.

Consideration also should be given to providing financial assistance on a case-by-case basis to patients who have exhausted their insurance benefits and/or who exceed financial eligibility criteria but face extraordinary medical costs. Hospital financial aid is not a substitute for employer-sponsored, public, or individually purchased insurance.

In establishing a financial aid program, consideration should be given by a hospital to:

- Maintaining understandable, written financial assistance policies for low-income uninsured patients, addressing both the hospital's charity care policy, as well as its discount payment policy for the low-income uninsured.
- That financial assistance policies clearly state the eligibility criteria, including:
 - Patient employment status and earning capacity.
 - Income eligibility based on family size.
 - Consideration of other resources available, including assets.
 - Other financial obligations.

The policy also should state the process used by the hospital to determine whether a patient is eligible for financial assistance. Such a process should evaluate a particular patient's financial status relative to existing Federal Poverty Levels. (*Note: This is a requirement of Act 77.*)

Patients who are at or below the Federal Poverty Levels or higher depending on the geographic cost of living differences in the state, should then be eligible to apply for financial assistance under each hospital's charity care policy (which may include a discount payment policy). Hospitals may consider providing financial assistance to those who earn more than the Federal Poverty Levels, and may establish collections policies and practices based on those patients' ability to pay. Federal and state laws and regulations should be considered in identifying these criteria.

- Absent any regulatory prohibition, each hospital should limit expected payments from these patients eligible for financial assistance to amounts that do not exceed the payments the hospital would receive for similar services from their aggregate commercial payors, government-sponsored health programs, or as otherwise deemed appropriate by the hospital.

- The policy should define the type and scope of essential services eligible for financial aid, including hospital-employed physician fees. Different discount scales may apply to different categories of services (e.g., ambulatory or clinic care). For example, a sliding scale of fixed fees may be applied to clinic or outpatient care if the patient is determined eligible for financial aid or charity care.
- This policy should clearly state whether the charity care/financial aid policy applies only to patients from certain hospital service areas and, if so, the policy should define those areas.
- Hospitals should use their best efforts to ensure all financial assistance policies are applied consistently.
- In determining a patient's eligibility for financial assistance, hospitals should assist the patient in determining if he/she is eligible for government-sponsored programs or other insurance coverage. *(Note: This is a requirement of Act 77.) The hospital may require the patient to first apply for government-sponsored programs before being considered for financial assistance.*

While it is incumbent upon hospitals to have and fairly implement financial aid policies for the poorest patients, it is important that financial aid applicants cooperate with the hospital's need for accurate and detailed financial information. Therefore, the hospital should make clear that any patient seeking financial aid shall comply with hospital assistance application requirements, including the production of necessary documentation within a reasonable time frame, and will provide the hospital with any and all financial and other information needed to assist in enrollment in a publicly sponsored insurance program (e.g., Medicaid, HealthChoices, CHIP, adultBasic), if required. Further, the hospital should specify what the patient should expect if she or she fails to provide the information requested by the hospital (e.g., the patient may not be eligible for a discount plan).

Because individual patients and their families will be sharing this financial information, hospital policies should include confidentiality protections to assure that such information only will be used to assist in enrollment or for evaluating eligibility for financial aid.

For Pennsylvania, it is important to note that hospitals now have the use of the Internet to enroll patients in the Medical Assistance and CHIP Programs. The COMPASS program provides an online application process that facilitates enrollment.

Guidelines Implementation

Many hospitals have existing financial aid policies in place and should review those policies in light of this updated guidance. Hospital and health system financial aid policies should address:

1. How the policy will be communicated to patients.
2. Identification of appropriate staff to administer the policy.
3. How the policy will be administered fairly, respectfully, and consistently.

Communicate the Availability of Financial Aid

- Communications to the public regarding financial assistance should be made readily available and should be written in consumer-friendly terminology and in languages that patients served by a hospital can understand.
- Include information in hospital bills about the availability of financial aid and how to obtain further information and apply for financial aid. Hospitals should respond promptly to patient questions about their bill and to requests for financial assistance.
- Information on financial assistance policies should be posted in key public areas with instructions on how to apply or obtain further information. (*Note: This is a requirement of Act 77.*)
- Patients should be informed about their responsibilities, the potential financial obligation they may incur, their obligations for completing eligibility documentation, and the hospital's bill collection policies.
- Patients should be referred to a facilitated enroller and/or provided with assistance regarding applying for Medicaid (including HealthChoices), CHIP and AdultBasic for future care needs. In addition, hospitals should inform patients about opportunities to obtain available insurance.
- Patients should be informed that they may reapply for financial assistance before, during or after care or after collection agency assignment if their situation changes.
- Patients should be informed that they may receive a hospital bill, which includes full charges, if they do not pursue the hospital's financial aid policy prior to their service, as the hospital will have no information to act otherwise. The bill should explain that patients who receive a bill may still contact the hospital for financial aid, and will then be brought into the financial aid eligibility review process.



Consult with Board and Educate and Train Staff to Meet the Expectations of the Hospital

- Hospitals should engage their Boards in developing and reviewing the hospitals' charity care and financial aid policies. Boards may be particularly helpful in identifying community needs for free care and financial assistance, and in ensuring that hospital policies are communicated to appropriate community representatives.
- Hospitals should ensure that their charity care and financial aid policies are disseminated to all appropriate levels of hospital management and staff, and should be reviewed periodically by their boards.
- Hospitals should provide training to appropriate administrative and all clinical staff that interact with patients about financial aid availability, how to communicate that availability to patients, and how to direct patients to appropriate financial aid staff.
- Staff should be trained to treat applicants with courtesy, confidentiality, and cultural sensitivity.
- Translation services should be provided as needed.

Administer Financial Aid Policies Fairly, Respectfully, Consistently

- Policies should be reasonable, simple, respectful, and promote appropriate access to care and responsible utilization of services.
- Documentation requirements should be easy to follow (e.g., require documents such as pay stubs, tax returns, mortgage papers, rent receipts, etc.).
- Hospitals should make timely and consistent financial aid decisions.
- All financial information obtained from patients should be treated consistent with the hospital's confidentiality policies.
- Periodic reports on the administration of the hospital's financial aid policy should be made to the hospital board.

Guidelines Collections Policy

Although clear and consistent financial aid policies will go far toward promoting access to care and minimizing bad debts, hospitals should have collections policies that reflect the mission and values of the hospital. Hospitals should also be accountable for ensuring that debt collections activities exercised by outside collections agencies comport with their mission, values, and directions.

Following are considerations for hospitals in establishing collections policies:

- Hospitals should work with each patient to establish a reasonable payment plan.
- Hospitals should have written policies about when and under whose authority patient debt is advanced for collection, and should use their best efforts to ensure that patient accounts are processed fairly and consistently.
- Legal action against individuals may be taken by the hospital only when there is evidence that the patient or responsible party has income and/or assets to meet his or her obligation. This would involve a review consistent with the hospital's financial assistance program, including consideration of the patient's employment status and earning capacity, income eligibility based on federal poverty guidelines, and other resources available.
- Hospitals should not force the sale or foreclosure of a patient's primary residence to pay an outstanding medical bill. Liens are permitted only when there is evidence that the patient or responsible party has income and or assets to meet his or her obligation. This would involve a review consistent with the hospital's financial assistance program, including consideration of the patient's employment status and earning capacity, income eligibility based on federal poverty guidelines, and other resources available.
- Hospitals should not use body attachment (a third-party that uses physical or legal means to compel an action) to require the patient or responsible party to appear in court.
- For inpatient care and high-cost outpatient emergency care, hospitals should review the patient's record to determine if reasonable efforts were undertaken to ensure that financial assistance was offered and/or if financial assistance is appropriate before any collections agency assignment.
- Hospitals should define the standards and scope of practices to be used by their outside (non-hospital) collection agencies and should obtain written agreements from such agencies that they will adhere to such standards and scope of practices.

Guidelines

Accountability/Advocacy

- Hospital boards should be provided with information on the extent of the charity care and financial aid provided, as well as the administration of the financial aid policy on a periodic basis.
- Hospital boards should periodically review charity care and financial aid policies and determine if modifications are needed. Subsequently, hospitals should review their charity care, financial aid, and collection practices for consistency with board-approved policies.
- Hospitals should share information on the availability of hospital financial aid/charity care policies with community service agencies.
- Hospitals should use their community service plans as a vehicle for publicly communicating the community and patient benefits and services they provide.
- Hospitals should seek opportunities to work with government agencies, payers, businesses, consumer groups, and others to address the underlying problem that too many Pennsylvanians lack adequate health insurance.



Guidelines

Model Patient Notice of Financial Aid

[NAME OF HOSPITAL] is proud of its mission to provide quality care to all who need it, 24 hours a day, 7 days a week, 365 days a year.

If you do not have health insurance or worry that you may not be able to pay for part or all of your care, we may be able to help. *[NAME OF HOSPITAL]* provides financial aid to patients based on their income, assets, and financial needs. In addition, we may be able to help you get free or low-cost health insurance or work with you to arrange a manageable payment plan.

Federal and state laws require all hospitals to seek payment for care provided. This means we could ultimately turn unpaid bills over to a collections agency, which could affect your credit status. Therefore, it is important that you let us know if there may be a problem paying your bill.

For more information, please contact *[NAME OF PERSON]* in our financial counseling office at *[PHONE NUMBER]*. We will treat your questions and any information you provide us with confidentiality and courtesy.