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To: Delegate Joseline A. Pena-Melnyk, Chair
Hospital and Government Operations Committee

Fr: Heather Forsyth, Deputy Director, Health Education and Advocacy Unit
on behalf of the Office of the Attorney General

Re: House Bill 328 – Hospitals – Financial Assistance Policies – Revisions
(Support with Amendment)

The Health Education and Advocacy Unit (HEAU) offers this letter in support of HB328 with one amendment. The revisions to hospital financial assistance policies offered in this bill make two important changes to ensure such policies are offered fairly and appropriately.

First it removes "mission and service area" language from financial assistance policies. The HEAU is aware of several hospital systems that limit financial assistance to defined service areas including specific zip codes citing the "mission and service area" language as authority for imposing such limitations. While there has been no case law, or a formal opinion offered by the Attorney General about this language, the HEAU believes the mission and service area language was added as a factor that hospitals and the HSCRC could consider when determining the federal poverty level thresholds for reduced cost care, not as a barrier to reduced cost care or other debt relief provisions. The HEAU has received numerous complaints from Marylanders, otherwise eligible for hospital financial assistance, who were denied because they resided outside the hospital's mission and service area, whether or not they were aware of such geographical lines before arriving.

In one such case, a consumer presented to a hospital in distress. She described being new to the area and using an internet search to find a local emergency room. The hospital she went to was 5.5 miles from her home and was the first option in her search. She was denied financial

assistance because her home was not within the hospital's "defined service area." Though making a "one time exception" for the consumer and noting that "future exceptions may not be approved," this hospital posited to the HEAU that the consumer should have gone to the hospital closer to her, which was 5.4 miles from her home.

In another case, a 25-year-old consumer who lived in Aberdeen, had surgery at a hospital, which, according to the consumer was the closest hospital that participated with her insurance. The hospital is 19 miles from her home; the closest hospital to her home was 10 miles away. She was denied financial assistance by the chosen hospital because her home was not within the "defined service area."

In another zip code denial case, a consumer was receiving outpatient psychiatric care entirely through telehealth.

Restricting financial assistance policies to the mission and service area ignores Marylanders who live in closer proximity to one hospital than another, but are "outside" the service area due to zip code. It ignores the reality of emergencies, of 911 service providers who follow their own rules regarding transport to hospital settings. It ignores the fact that many Marylanders live in one county but work or attend school in another, or are temporary residents in our state due to their college attendance; or that the beaches and mountains of our state invite visitors from around the state to their area, and illness and accidents do not stop occurring simply because one is on vacation.

Second, HB328 updates financial assistance policies by excluding asset testing from financial assistance eligibility. Current law excludes only the first $10,000 of monetary assets, $150,000 of home equity, an automobile, assets excluded under certain federal programs, and certain types of retirement funds. As proposed, the bill would remove asset testing all together. The Office of the Attorney General supports modernizing asset tests as research has shown that overly restrictive asset limits penalize savings, harm retirees who are relying on their assets in retirement, and are counterproductive to maintaining economic security for low income families; but we do not believe it is necessary to remove all monetary assets from consideration.

The Office of the Attorney General (OAG) supports excluding monetary assets up to $100,000, which more realistically acknowledges the cost of unexpected economic shock and the reliance many families have on monetary savings to protect against eviction, afford rising property taxes, avoid utility interruption, pay for a car repair, pay continuing out of pocket medical expenses, or even supplementing their monthly budgets against a fixed income. For working families, low asset limits discourage families from saving, or wipe out their savings, even if they only need help temporarily. The OAG believes raising the excluded amount without removing monetary assets all together from consideration strikes the appropriate balance between consumer needs and hospital budgets.

Provision of charity care by non-profit hospitals through the application of financial assistance policies is required for hospitals to maintain their federal and state tax exempt status. A 2021 survey of Maryland hospitals by ownership reported that 47 of 48 Maryland hospitals

claim non-profit status and realize significant tax savings through their tax exempt status. Studies have noted that often the benefits in tax savings status outweigh the cost of charity care.[1]

In addition, Maryland's unique all-payor model means that adjustments can be made to global budget revenue agreements if warranted.

For these reasons we urge support of HB328 with the amendment offered.

Amendment

On page 2, line 25, before "A hospital", insert "Except for the first $100,000 in monetary assets,"

[1] After adjusting for community benefits provided by for-profits hospitals, on average, non-profit hospitals spent 5.9% (CI: 5.8%-6.0%) of their total expenses on community benefits; 1.3% (CI: 1.2%-1.3%) on charity care; and received 4.3% (CI: 4.2%-4.4%) of total expenses in tax exemptions. A total of 38.5% of non-profit hospitals did not provide more community benefit and 86% did not provide more charity care than the value of their tax exemption. Hospitals with fewer beds, providing residency education and located in high poverty communities were more likely to provide more incremental community benefits and charity care than the value of their tax exemption, while system affiliation had a negative association. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8928013/

Copy: Delegate Lesley Lopez