

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

Senate Bill 328

(Senator Middleton, *et al.*)

Finance

Health and Government Operations

Hospitals - Financial Assistance and Debt Collection

This bill alters the requirements for hospital financial assistance and debt collection policies and makes the requirements applicable to chronic care hospitals that are subject to rates set by the Health Services Cost Review Commission (HSCRC).

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues due to imposition of existing penalty provisions beginning in FY 2011. The bill's requirements can be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Financial hardship" means medical debt, incurred by a family over a 12-month period that exceeds 25% of family income.

"Medical debt" means out-of-pocket expenses, excluding copayments, coinsurance, and deductibles, for medical costs billed by a hospital.

Financial Hardship

Hospitals must, in their financial assistance policies, provide reduced-cost medically necessary care to patients with family income below 500% of federal poverty guidelines (FPG) who have a financial hardship. However, the bill authorizes a hospital to seek and HSCRC to approve a different income threshold based on specified factors.

For qualifying patients, the hospital must apply the reduction that is most favorable to the patient, whether that is the reduced cost policy or financial hardship policy.

If a patient has received reduced-cost medically necessary care due to financial hardship, the patient or any immediate family member living in the same household remains eligible for reduced-cost care when seeking further care at the same hospital for 12 months following the initial care. The patient or family member must inform the hospital of his or her eligibility.

A hospital must provide a mechanism for a patient to request that the hospital reconsider a denial of free or reduced-cost care and to file a complaint with the hospital or outside collection agency used by the hospital, regarding the patient's bill.

Late Discovery of Free Care Eligibility

Beginning October 1, 2010, if a hospital has collected more than \$25 from a patient or patient's guarantor and the patient, within a two-year period, was found to be eligible for free care on the date of service, the hospital must refund the patient or guarantor any amount collected above \$25. If a judgment or adverse credit report has been entered on a patient who was later found to be eligible for free care on the date of the service for which the judgment was awarded or the adverse information was reported, the hospital must vacate the judgment or strike the adverse information and refund the patient. However, if a patient is enrolled in a means-tested government health care plan that requires the patient to pay out-of-pocket for hospital services, a hospital's refund policy must comply with the terms of the patient's plan.

A hospital may reduce the two-year period to 30 days after the hospital requests relevant information from the patient in order to determine eligibility for financial assistance if the hospital documents a patient or guarantor's lack of cooperation in providing requested information.

Patient Information

Hospitals' posted notices must inform patients of their right to apply for financial assistance and who to contact for additional information. Hospital staff trained to work with patients, family, and authorized representatives to understand hospital bills, as well as the patients' rights and obligations regarding the bill, must also help patients understand their rights and obligations regarding reduced-cost medically necessary care.

Upon request, a hospital has to provide a patient (during normal business hours) a written estimate of the total charges that are reasonably expected to be billed to the patient. However, the estimate must state that it is only an estimate and that charges may vary. The requirement does not apply to emergency services.

Uniform Standards for Hospital Collection Policies

The bill prohibits a hospital from reporting adverse information to a consumer credit reporting agency or commencing civil action against a patient for nonpayment for at least 120 days after issuing an initial patient bill unless the hospital documents a patient or guarantor's lack of cooperation in providing information needed to determine the patient's obligation regarding the bill.

A hospital that delegates collection activity to an outside collection agency must explicitly authorize or contract the agency to do so and require the agency to abide by the hospital's collection and credit policy. The hospital must also specify procedures the agency has to follow if a patient appears to qualify for financial assistance, and require the agency to provide a mechanism (according to hospital policy) for a patient to file a complaint with the hospital or agency regarding the handling of his or her bill, and forward any complaints to the hospital.

A hospital must report a patient's fulfillment of his or her payment obligation to any consumer reporting agency to which the hospital had reported adverse information about the patient within 60 days after the obligation is fulfilled.

The bill prohibits a hospital from forcing the sale or foreclosure of a patient's primary residence to collect an outstanding debt. If a hospital holds a lien on a patient's primary residence, the hospital may maintain the right to defend its legal position as a secured creditor with respect to other creditors to whom the patient may owe a debt.

Any changes to the hospital's financial assistance and debt collection policies require the approval of the hospital's board of directors, and the board must review and approve the policies every two years.

Current Law:

Free and Reduced-cost Care

Acute care hospitals must develop a financial assistance policy for providing free and reduced-cost care to patients who lack sufficient health care coverage. At a minimum, the policy has to provide free medically necessary care to patients with family income up to 150% FPG and reduced-cost medically necessary care to low-income patients with family income above 150% FPG, in accordance with the mission and service area of the hospital. HSCRC may establish higher income thresholds by regulation. In establishing higher thresholds, HSCRC must consider a hospital's patient mix, financial condition, bad debt, and charity care. Hospitals must post a notice in conspicuous places throughout the hospital, including the billing office, describing the financial assistance policy and how to apply for free and reduced-cost care.

Information Sheet and Notice to Patients

HSCRC must develop a uniform financial assistance application and require use of the application by each hospital. This application must be written in simplified language and may not require documentation that presents an undue barrier to a patient's receipt of financial assistance.

Each hospital must develop an information sheet that (1) describes the hospital's financial assistance policy; (2) describes a patient's rights and obligations with regard to hospital billing and collection; (3) provides contact information on how to access assistance; (4) provides contact information for the Medicaid program; and (5) includes a statement that physician charges are billed separately. The information sheet must be given to the patient or a representative of the patient at specified times and must be referenced on the hospital bill. HSCRC must establish uniform requirements for the information sheet and review each hospital's compliance. Each hospital must also ensure the availability of staff who are trained to work with the patient or a representative of the patient to understand billing issues and how to apply for Medicaid and other programs that may help pay the hospital bill.

Debt Collection Policies

Each hospital must submit to HSCRC the hospital's debt collection policy. The policy must (1) provide for active oversight by the hospital of any contract for collection of debts on behalf of the hospital; (2) prohibit the hospital from selling any debt; (3) prohibit the charging of interest on bills incurred by self-pay patients before a court judgment is obtained; (4) describe in detail the consideration by the hospital of patient income, assets, and other criteria; (5) describe the hospital's procedures for collecting a debt; and (6) describe the circumstances in which the hospital will seek a judgment against a patient. HSCRC must review each hospital's implementation of and compliance with these policies.

Penalties and Workgroup Reporting Requirement

A hospital that knowingly violates any financial assistance policy provision or regulation is subject to a fine of up to \$50,000 per violation.

Chapters 310 and 311 of 2009 required HSCRC to establish a workgroup on patient financial assistance and debt collection to review the need for uniform policies among hospitals. Chapters 310 and 311 also required HSCRC to study and make recommendations on incentives for hospitals to provide free and reduced-cost care to patients without the means to pay their hospital bills by October 1, 2009.

Chronic Care Hospitals

A chronic care hospital is a specific type of special hospital. A hospital is classified as a special hospital if it defines a program of specialized services, such as obstetrics, mental health, tuberculosis, orthopedy, chronic disease, or communicable disease, and meets other requirements.

Background: HSCRC's report included 36 recommendations that fall into 11 categories such as reporting requirements, patient responsibilities, medical hardship, and financial assistance policies. This bill is largely based on those recommendations.

There are six chronic care hospitals in Maryland – four private and two public. HSCRC sets rates for the four private hospitals, and DHMH regulates the two public hospitals (Deer's Head Hospital Center and Western Maryland Hospital Center), which are not subject to the HSCRC rate setting process. HSCRC advises that two of the four private hospitals are also considered general hospitals and already subject to existing debt collection requirements. Therefore, only two additional private chronic care hospitals that were unaffected by existing debt collection requirements will now be affected under the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 922 (Delegate Montgomery, *et al.*) - Health and Government Operations.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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