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**TO:** The Honorable Joseline Peña Melnyk, Chair  
House Health and Government Operations Committee

**FROM:** Office of the Attorney General, Health Education and Advocacy Unit  
and Consumer Protection Division

**RE:** SB404/HB333 – Hospitals – Financial Assistance – Medical Bill  
Reimbursement Process: **Support with Amendments**

The Office of the Attorney General's Consumer Protection Division (the Division) and Health Education and Advocacy Unit (HEAU) supports SB404, as amended, which provides a cost-effective and timely solution to the serious problem that was revealed on Page 1 of the February 2021 legislative report from the Health Services Cost Review Commission (HSCRC) entitled [\*Analysis of the Impact of Hospital Financial Assistance Policy Options on Uncompensated Care and Costs to Payers Mandated by House Bill 1420 \(Ch. 470, 2020 Md. Laws\) MSAR# 12823\*](#):

HSCRC determined that approximately 60% of UCC (i.e. unpaid charges) attributable to individuals with a household income under 200% of the federal poverty level (FPL) is reported by hospitals as bad debt, rather than free care. **Hospitals are required by statute to provide free care to patients below this income level.** The analysis in this report suggests that hospitals attempted (and failed) to collect this debt from a sizable number of patients likely eligible for free care. In addition, **approximately 1% of total hospital charges to individuals who likely qualify for free care are paid by those individuals (this amounts to approximately \$60 million statewide).**

(Emphasis added).

The estimated amount of improperly collected payments from free-care eligible patients was based on data from HSCRC's hospital case mix data set; data from Maryland tax filings from the Maryland Office of the Comptroller (Comptroller's Office); and commercial insurance claims data from the Maryland Medical Care Database (MCDB) maintained by the Maryland Health Care Commission. The data did not, on its own, identify the free-care eligible patients who made payments they should never have been asked to make.

This bill follows legislation passed last year (HB694) which required the HSCRC in coordination with the Department of Human Services (DHS), the State-designated exchange (CRISP), the Comptroller's Office, and the Maryland Hospital Association (MHA) to develop a process to identify the free-care eligible patients; determine how data should be shared or disclosed to effectuate reimbursement while maintaining federal and state confidentiality laws; and provide reimbursement to the patients.

In the interim, the stakeholders met and the resulting HSCRC report, [Hospitals - Financial Assistance - Medical Bill Reimbursement](#), identified four options for the General Assembly's consideration, each reflecting a balance of policy and process goals. This bill implements Option 3, which we support because it reduces the burden on patients. The HEAU welcomes the opportunity to assist consumers in obtaining refunds under the streamlined process this bill proposes – patients identified as free-care eligible will be issued refunds except in the limited instance where hospitals deemed the patient ineligible for free care, at the time of the service, based on an asset test. This streamlined process avoids putting consumers and hospitals back where they were in 2017-2021 when apparent failures of the financial assistance processes occurred. Consumers should not be required to supply asset information from up to 6 years ago in order to receive refunds. If asset tests are imposed, consumers, hospitals and the HEAU as the agency assisting consumers, will face an unreasonable burden to establish the patients' entitlement to financial assistance that should have been provided years ago.

The hospitals will pay for the costs associated with the reimbursement effort and HSCRC will not take the costs into consideration when setting rates for the hospitals. We believe it is very important to not allow hospitals to shift to the State those costs associated with ensuring that hospitals fulfill their tax-exempt status obligations under federal and State laws

Amendments were offered to the bill to enable the HEAU to provide the assistance mandated by the bill, including provisions requiring information sharing with consumer authorization, and an enforcement provision. After passing unanimously in sub-committee in each chamber (one absent member in HGO), the bill as amended went on to pass 138-0 and 45-0 on third reader in the House and Senate, respectively. It is back before you for crossover consideration, and we urge your favorable report.