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Understanding Required Financial Assistance in Medical Care

Consumer Financial Protection Bureau

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This is an Office of Research Brief produced by the Consumer Financial Protection Bureau. This brief was prepared by Susan Singer, Eric Wilson, and Octavian Carare.

1. Introduction

Many consumers struggle to afford the costs of essential medical services. To bring more focus to the impact of medical bills and collections on consumers, the Consumer Financial Protection Bureau (CFPB) is releasing reports and blogs over the next several months discussing the key financial hurdles the health care system presents to patients and their families. In this research brief, we discuss required financial assistance (also known as charity care), one of the main forms of assistance hospitals offer to low-income consumers to help cover the cost of medical treatment.[1] In the following, we define required financial assistance, explain its sources of funding, who is eligible, and who its likely beneficiaries are. In forthcoming briefs, we intend to discuss the pitfalls of medical credit cards and installment payments in the medical payment space.

[1] We use the term *required financial assistance* or *financial assistance* instead of the term *charity care* because they more accurately reflect that hospitals benefitting from various federal and state tax exemptions have a legal requirement to provide financial assistance to those who cannot afford the cost of care.

2. What is required financial assistance?

Required financial assistance is a form of community benefit involving medical care that is provided for free, or at a discount, to patients who cannot afford to pay. Nonprofit hospitals are required by federal law and some state laws to meet a community benefit standard to maintain significant tax and other financial benefits afforded by their nonprofit status. This standard is met in part by the provision of financial assistance to those who are not able to pay. In addition, federal law and some state laws require hospitals to have written policies that outline information such as eligibility criteria and application requirements to receive financial assistance. Under the Affordable Care Act, nonprofit hospitals must:

- Widely publicize these financial assistance policies
- Provide a paper copy of a plain language summary of the policy as part of their patient intake or discharge process
- Display financial assistance policies in public spaces at the hospital
- Include website links and contact information about the financial assistance program on billing statements[2]

Some state laws have additional requirements. For example, all Washington State hospitals are required to inform patients about financial assistance options verbally and in writing and must screen patients for eligibility before attempting to collect payments.[3]

[2] Requirements for 501(c)(3) Hospitals Under the Affordable Care Act – Section 501(r), Internal Revenue Service, https://www.irs.gov/charities-non-profits/charitable-organizations/requirements-for-501c3-hospitals-under-the-affordable-care-act-section-501r

[3] Washington Administrative Code Chapter 246-453. https://app.leg.wa.gov/wac/default.aspx?cite=246-453&full=true

3. Who is eligible for required financial assistance?

Federal law does not specify the criteria hospitals should use to determine who is eligible for financial assistance, but several states have laws and regulations that do.[4] State law eligibility requirements vary widely. For example, Washington State requires hospitals to develop financial assistance policies allowing patients with family incomes below 100% of the federal poverty level (FPL) to receive free care, and patients with family incomes up to 200% of the FPL to receive care at a discount.[5] In some states, such as New Jersey and Massachusetts, the income threshold for free care eligibility is 200% of the FPL. New Jersey law also specifies that financial assistance is available to low-income residents with no health insurance, or with health insurance that pays only part of a medical bill, or for patients ineligible for private or government-sponsored coverage. New Jersey law also specifies the fraction of the bill that patients are responsible for as a function of their incomes.[6]

[4] The Hilltop Institute provides a useful summary of state community benefit laws, see https://hilltopinstitute.org/our-work/hospital-community-benefit/hospital-community-benefit-state-law-profiles/.

[5] See https://doh.wa.gov/data-statistical-reports/healthcare-washington/hospital-and-patient-data/hospital-patient-information-and-charity-care

[6] For example, patients with income below 200% of the HHS Poverty Income Guidelines level who satisfy certain asset criteria should receive assistance for the full amount of their payment. See *New Jersey Hospital Care Payment Assistance Fact Sheet*, available online at https://www.state.nj.us/health/charitycare/documents/charitycare_factsheet_en.pdf.

4. Who receives required financial assistance?

The available evidence indicates that not all patients eligible for financial assistance receive it.[7] Many patients, for example, do not receive legally mandated information about their potential eligibility for financial assistance. A 2015 study suggests that only 44% of hospitals reported that they notified patients about eligibility for financial assistance before attempting to collect unpaid medical bills.[8] This suggests that hospitals can do a lot more to inform patients about financial assistance options available to them.

Among those who do receive required financial assistance, there appears to be a gender imbalance. A Rutgers University study, for example, found that in New Jersey in the early 2000s women accounted for a larger share of financial assistance claims than men by a 2-to-1 margin, and that prenatal care and delivery were the most common financial assistance services provided by New Jersey hospitals.[9]

State laws and regulations vary in important ways. Some states provide incentives to hospitals to have well-funded financial assistance initiatives and effective distribution of funds for financial assistance, while other states appear to do little to incentivize the provision of financial assistance. Some states provide property, income, and sales tax exemptions for nonprofit hospitals that provide financial assistance and have clear requirements or rules related to the provision of financial assistance.[10] Other states provide some or all of these tax exemptions but do not have any additional requirements or rules to provide financial assistance beyond the Affordable Care Act requirements. And some states have no legislation governing the provision of financial assistance at all. These varying policies may, in turn, affect the number of patients who successfully access financial assistance. But there is scant systematic evidence on the

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[7] *See e.g.*, Dranove, D., Garthwaite, C., Ody, C. "A Floor-and Trade Proposal to Improve the Delivery of Charity Care Services by U.S. Noprofit Hospitals," The Hamilton Project, Discussion Paper 2015-0, October 2015; Mose, J., "A multilevel mixed-effects regression analysis of the association between hospital, community and state regulatory factors, and family income eligibility limits for free and discounted care among U.S. not-for-profit, 501 (c)(3), hospitals, 2010 to 2017," BMC Health Services Research, 21:230, 2021; O'Toole, T, Arbelaez, J, Lawrence, The Baltimore Community Healthy Consortium, "Medical Debt and Aggressive Debt Restitution Practices, Predatory Billing Among the Urban Poor, J. Gen Intern Med, 19:772-778, 2004.

[8] Saveh, S. *et al.* "Hospital Charity Care — Effects of New Community-Benefit Requirements," NEJM 2015; 373:1687-1690 https://www.nejm.org/doi/10.1056/NEJMp1508605.

[9] See DeLia, D. (2007) "Evaluation of the Hospital Charity Care Program in New Jersey," Rutgers Center for State Health Policy, available online at http://www.cshp.rutgers.edu/downloads/7060.pdf.

[10] See fn. 9 above. Also see https://www.nclc.org/images/pdf/medical-debt/Rpt_Ounce_of_Prevention.pdf.

impact of various state-level financial assistance policies, and it is difficult to determine whether these policies are a help or a hinderance to obtaining financial assistance by the eligible patients who need it.

5. Funding for financial assistance

Nonprofit hospitals receive significant federal and state tax exemptions. The Joint Committee on Taxation estimated that, in 2002, these tax exemptions amounted to $12.6 billion in tax relief.[11] In 2011, the total amount of tax relief was estimated at $24.6 billion.[12] We are not aware of more recent estimates of the total tax relief that nonprofit hospitals receive. Financial assistance and other community benefits provided by hospitals would at least in part be funded from tax exemptions at both the federal, state and local levels. From the data available, it appears that the total amount of tax relief for nonprofit hospitals greatly exceeds the levels of financial assistance hospitals provide in any given year.[13]

There are other ways for hospitals in certain states to be reimbursed for the levels of financial assistance they provide. Several states fund financial assistance through dedicated programs. For example, in New Jersey, the Health Care Subsidy Fund allocated $319 million in 2022 to hospitals for financial assistance.[14] In Massachusetts, payments from the Health Safety Net in 2019 amounted to $387 million.[15] These states' funds have been fully expended each year and are provided in addition to the hospitals' financial assistance obligations. New York and Pennsylvania also have programs that provide financial assistance to low-income individuals for the cost of medical care.[16]

Generally, nonprofit hospitals spend a relatively small fraction of their net income on required financial assistance. A recent study by Johns Hopkins researchers analyzed financial assistance expenditures by nonprofit hospitals and found that in 2017 these hospitals provided $14.2 billion in financial assistance, while they generated approximately $49 billion in overall net

[11] See https://www.cbo.gov/sites/default/files/109th-congress-2005-2006/reports/12-06-hospitaltax.pdf.

[12] The $24.6 billion estimate includes federal income tax, state income tax, state and local sales taxes and local property taxes. Rosenbaum, S, Kindig DA, Bao J, Byrnes MK, O'Laughlin C. "The Value of the Non-Profit Hospital Tax Exemption was $24.6 Billion in 2011" *Health Affairs*, 2015: 37(7): 1225-1233.

[13] Nonprofit hospitals provide other forms of community benefits in addition to required financial assistance. It is also worth highlighting that, overall, the data characterizing these benefits are limited.

[14] See https://www.nj.gov/health/charitycare/subsidy-reports/SFY2022_Charity_Care_Subsidy_Allocation.pdf.

[15] See https://www.mass.gov/doc/hsn-annual-report-december-2019-1/download,

[16] For a description of New York's Indigent Care Pool, see https://www.health.ny.gov/press/reports/docs/2019_icp_workgroup_report.pdf; for Pennsylvania,

income. [17] The study also found that the higher the net income of the hospital, the smaller the percentage of its net income was directed towards financial assistance. Another study, by the California Nurses Association, indicates that, in 2016, financial assistance represented only approximately 20% of California nonprofit hospitals' net income. So, there appears to be some variation in the share of operating expenses that nonprofit hospitals use for financial assistance. Indeed, there appears to be a large gap, at least for some hospitals, between the levels of financial assistance that would be justified by the tax benefits hospitals receive and the levels of financial assistance actually offered.

Financial assistance laws that require hospitals to commit to a certain required level of spending on financial assistance could help bridge the gap between the levels of financial assistance required by those eligible and the levels of financial assistance actually provided. For example, Texas provides three ways for nonprofit hospitals to meet their financial assistance obligations.[18] One of these ways is based on a hospital's tax-exempt status and requires the nonprofit hospital to provide financial assistance at least equal to a hospital or hospital system's tax-exempt benefits. [19] A study published in 2010 looked at the effects of requiring nonprofit hospitals in Texas to spend at least four percent of their net patient revenue on government-sponsored indigent care and financial assistance. [20] The study concluded that nonprofit hospitals that were spending less than four percent of net patient revenues on financial assistance increased their spending on financial assistance, whereas those with spending above four percent exhibited a marginally significant decrease in their spending.

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[17] Bai G, Yehia, F, Anderson, G, "Charity Care Provision by Non-Profit Hospitals", *JAMA Internal Medicine*, April 2020, vol. 180 (4), 606-607.

[18] Tex. Health & Safety Code Ann. § 311.045(b)(1); Tex. Tax Code Ann. § 11.1801(a) https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=133588&p_tloc=&p_ploc=1&pg=5&p_tac=&ti=25&pt=1&ch=13&rl=13. The second standard is charity care and community benefits are provided in a combined amount equal to at least 5% of the hospital's or hospital system's net patient revenue provided that charity care and government sponsored indigent health care are equal to at least 4% of net patient revenues. The third standard is to provide charity care and government-sponsored indigent health care at a level that is reasonable in relation to community needs as determined through the community needs assessment.

[19] Another standard is based on a percent of net patient revenues (charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least 4 percent of net patient revenue).

[20] Kennedy, F., Burney, L., Troyer, J., Stroup, J., "Do Non-Profit Hospitals Provide More Charity Care When Faced With a Mandatory Minimum Standard? Evidence from Texas," *Journal of Accounting and Public Policy*, 29(3), June 2010, 242-258.

6. Enforcement of state and federal provisions

Consistent with the general underutilization of financial assistance, we found little evidence that compliance with financial assistance rules is systematically monitored and enforced at the federal level. However, at the state level, many state attorneys general monitor and enforce compliance with state laws mandating the provision of financial assistance to qualifying patients. Some states' monitoring and enforcement is non-public, while other states' enforcement actions are public. For example, recently, the Washington State Attorney General filed a lawsuit alleging that 14 hospitals in the state failed to provide free or discounted medical care to low-income patients and pressured them to pay even if they were eligible for financial assistance. [21]

Enactment of state laws by additional states and more enforcement actions could help more patients gain access to financial assistance hospitals are required to provide. The North Carolina State Health Plan and the Johns Hopkins Bloomberg School of Public Health released a report in 2021 that concluded that there is no public official or agency in North Carolina that is charged with enforcing the provision of financial assistance by nonprofit hospitals. The report indicated that this lack of oversight rewards hospitals that collect the state tax exemption without providing sufficient levels of financial assistance. [22]

[21] State of Washington v. Providence Health & Services-Washington: Swedish Health Services; Swedish Edmonds; and Kadlec Regional Medical Center, Complaint for Injunctive and Other Relief Under the Consumer Protection Act, RCW 19.86, Case No. 22-2-01754-6 SEA, filed February 24, 2022.

[22] North Carolina State Health Plan and Johns Hopkins Bloomberg School of Public Health, "North Carolina Hospitals: Charity Care Case Report", October 27, 2021.

7. Conclusion

Access to required financial assistance can provide significant relief to the patients and families impacted by medical bills and collections, but financial assistance for medical care appears to be underused. More work by academic researchers and public policy specialists needs to be done in this area to understand how to improve access to financial assistance for the eligible families who are seeking it and ensure that the benefits flow to the intended beneficiaries.