



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

**NOTICE OF ADOPTION
INTERPRETIVE STATEMENT**

Title of Interpretive Statement: Charity Care Geographic Restrictions | CC23-01

Issuing Entity: Department of Health

Subject Matter: Statutory eligibility for charity care under chapter 70.170 RCW, as implemented under chapter 246-453 WAC, is based on income and shall not be based, in whole or in part, on an indigent person's residency.

Effective Date: September 18, 2023

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Interpretive Statement

<i>Title:</i>	Charity Care Geographic Restrictions	<i>Number:</i> CC23-01
<i>References:</i>	Health Data and Charity Care (Chapter 70.170 RCW) https://app.leg.wa.gov/RCW/default.aspx?cite=70.170 Hospital Charity Care (Chapter 246-453 WAC) https://apps.leg.wa.gov/WAC/default.aspx?cite=246-453&full=true	
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The Department of Health interprets chapter 70.170 RCW to require hospitals to provide charity care to indigent persons without regard to a person’s residency. A hospital charity care policy restricting eligibility to patients residing within specified geographic boundaries would not be considered to comply with chapter 70.170 RCW.

Background

Washington’s charity care law (chapter 70.170 RCW or Charity Care Act) and the regulations promulgated thereunder (chapter 246-453 WAC) require acute care and psychiatric hospitals to provide medically necessary hospital health care to indigent persons to the extent the persons are unable to pay for the care or for the deductibles or coinsurance amounts required by third-party payers.

The most recent amendments to the Charity Care Act, signed into law by Governor Inslee on March 30, 2022, specify that indigent persons “are those patients or their guarantors who qualify for charity care pursuant to RCW 70.170.060(5) based on the federal poverty level, adjusted for family size, and who have exhausted any third-party coverage.” RCW 70.170.020(5) (Laws of 2022, ch. 197, § 1). The 2022 amendments to RCW 70.170.060(5), in turn, require that “each hospital shall develop, implement, and maintain a policy which shall enable indigent persons access to charity care.” RCW 70.170.060(5) (Laws of 2022, ch. 197, § 2.) As amended, this statute further stipulates which patients “shall be deemed charity care patients” and which patients “shall be entitled to” specified discounts, according to the patients’ incomes relative to the federal poverty level adjusted for family size. *Id.*

A small number of hospitals in Washington have implemented charity care policies and practices that restrict eligibility for charity care to persons who reside inside hospital-specified geographic boundaries (e.g., by zip code(s), city(ies), county(ies), state(s), or country), and deny charity care to persons who reside outside those hospital-specified geographic boundaries.

Examples of hospital policies and practices denying charity care eligibility based on geographic location of residence could include restrictions such as the following:

- “Patient must reside within [zip code, city, county] to be eligible for charity care at [hospital name].”
- “Patient must be a Washington resident to receive charity care.”
- “Patients who reside outside the [hospital] service area are not eligible for Charity Care/Financial Assistance.”
- “Eligibility for Charity Care requires an individual to be a resident of Washington State in the service area of [county 1, county 2, and county 3].”

Applicable law/rules

RCW 70.170.020(2) states: “‘Charity care’ means medically necessary hospital health care rendered to indigent persons when third-party coverage, if any, has been exhausted, to the extent that the persons are unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payer, as determined by the department.”

RCW 70.170.020(5) states: “‘Indigent persons’ are those patients or their guarantors who qualify for charity care pursuant to RCW 70.170.060(5) based on the federal poverty level, adjusted for family size, and who have exhausted any third-party coverage.”

RCW 70.170.060(5) states: “For the purpose of providing charity care, each hospital shall develop, implement, and maintain a policy which shall enable indigent persons access to charity care. The policy shall include procedures for identifying patients who may be eligible for health care coverage through medical assistance programs under chapter 74.09 RCW or the Washington health benefit exchange and actively assisting patients to apply for any available coverage. If a hospital determines that a patient or their guarantor is qualified for retroactive health care coverage through the medical assistance programs under chapter 74.09 RCW, a hospital shall assist the patient or guarantor with applying for such coverage. If a hospital determines that a patient or their guarantor qualifies for retroactive health care coverage through the medical assistance programs under chapter 74.09 RCW, a hospital is not obligated to provide charity care under this section to any patient or their guarantor if the patient or their guarantor fails to make reasonable efforts to cooperate with the hospital's efforts to assist them in applying for such coverage. Hospitals may not impose application procedures for charity care or for assistance with retroactive coverage applications which place an unreasonable burden upon the patient or guarantor, taking into account any physical, mental, intellectual, or sensory deficiencies, or language barriers which may hinder the responsible party's capability of complying with application procedures. It is an unreasonable burden to require a patient to apply for any state or federal program where the patient is obviously or categorically ineligible or has been deemed ineligible in the prior 12 months.

(a) At a minimum, a hospital owned or operated by a health system that owns or operates three or more acute hospitals licensed under chapter 70.41 RCW, an acute care hospital with over 300 licensed beds located in the most populous county in Washington, or an acute care hospital with over 200 licensed beds located in a county with at least 450,000 residents and located on Washington's southern border shall grant charity care per the following guidelines:

(i) All patients and their guarantors whose income is not more than 300 percent of the federal poverty level, adjusted for family size, shall be deemed charity care patients for the full amount of the patient responsibility portion of their hospital charges;

(ii) All patients and their guarantors whose income is between 301 and 350 percent of the federal poverty level, adjusted for family size, shall be entitled to a 75 percent discount for the full amount of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to (c) of this subsection;

(iii) All patients and their guarantors whose income is between 351 and 400 percent of the federal poverty level, adjusted for family size, shall be entitled to a 50 percent discount for the full amount of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to (c) of this subsection.

(b) At a minimum, a hospital not subject to (a) of this subsection shall grant charity care per the following guidelines:

(i) All patients and their guarantors whose income is not more than 200 percent of the federal poverty level, adjusted for family size, shall be deemed charity care patients for the full amount of the patient responsibility portion of their hospital charges;

(ii) All patients and their guarantors whose income is between 201 and 250 percent of the federal poverty level, adjusted for family size, shall be entitled to a 75 percent discount for the full amount of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to (c) of this subsection; and

(iii) All patients and their guarantors whose income is between 251 and 300 percent of the federal poverty level, adjusted for family size, shall be entitled to a 50 percent discount for the full amount of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to (c) of this subsection.

(c) (i) If a hospital considers the existence, availability, and value of assets in order to reduce the discount extended, it must establish and make publicly available a policy on asset considerations and corresponding discount reductions.

(ii) If a hospital considers assets, the following types of assets shall be excluded from consideration:

(A) The first \$5,000 of monetary assets for an individual or \$8,000 of monetary assets for a family of two, and \$1,500 of monetary assets for each additional family member. The value of any asset that has a penalty for early withdrawal shall be the value of the asset after the penalty has been paid;

(B) Any equity in a primary residence;

(C) Retirement plans other than 401(k) plans;

(D) One motor vehicle and a second motor vehicle if it is necessary for employment or medical purposes;

(E) Any prepaid burial contract or burial plot; and

(F) Any life insurance policy with a face value of \$10,000 or less.

(iii) In considering assets, a hospital may not impose procedures which place an unreasonable burden on the responsible party. Information requests from the hospital to the responsible party for the verification of assets shall be limited to that which is reasonably necessary and readily available to substantiate the responsible party's qualification for charity sponsorship and may not be used to discourage application for such sponsorship. Only those facts relevant to eligibility may be verified and duplicate forms of verification may not be demanded.

(A) In considering monetary assets, one current account statement shall be considered sufficient for a hospital to verify a patient's assets.

(B) In the event that no documentation for an asset is available, a hospital shall rely upon a written and signed statement from the responsible party.

(iv) Asset information obtained by the hospital in evaluating a patient for charity care eligibility shall not be used for collection activities.

(v) Nothing in this section prevents a hospital from considering assets as required by the centers for medicare and medicaid services related to medicare cost reporting.”

Conclusion

The Legislature has provided that hospitals must provide charity care and must determine charity care eligibility based on the income (relative to the federal poverty level, adjusted for family size) of patients who have exhausted third-party coverage. Statutory eligibility for charity care under chapter 70.170 RCW, as implemented under chapter 246-453 WAC, shall not be based, in whole or in part, on an indigent person’s residency.