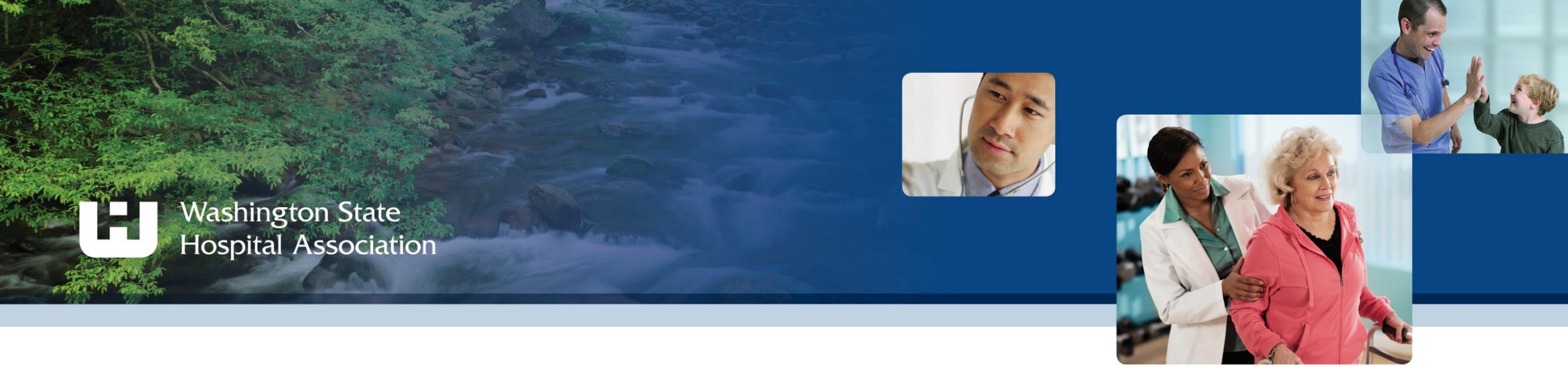

Updates: Financial Assistance, Transparency and Surprise Billing

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AAHAM Inland Empire Chapter

November 11, 2022

SHB 1616 – Financial Assistance

2022 Legislative Proposal

Washington State Hospital Association

Broad expansion of charity care obligations

- Increase charity care eligibility for patients up to 400% FPL
  - Free care 0-300% FPL
  - Mandatory discounts 300-400% FPL
- Expand charity care coverage to clinics affiliated with hospitals
- Prevent consideration of patient assets when determining charity care discounts
- No requirement that a patient exhaust third-party coverage

WSHA's Advocacy

- Negotiated two-tiered discount system to reduce impact of charity care expansion to small, rural, and independent hospitals
- Removed charity care expansion to affiliated clinics
- Allowed patient asset consideration to reduce discounts
- Clarified that charity care is only available for patients who have exhausted third party coverage

Charity Care – HB 1616

- WSHA engaged in substantial negotiations, bill passed
  - Sizeable expansion of charity care mandate in state law
  - Establishes 2 tiers – large hospitals & systems; independent & small hospitals

Tier 1	**Tier 2**
Hospitals owned or operated by a health system that owns or operates 3+ acute hospitals, and including Children's, Overlake, Evergreen Kirkland, & Legacy Salmon Creek.	Hospitals not in Tier 1
Free up to **300%** federal poverty level (FPL)	Free up to **200%** FPL
75% discount 301-350% FPL*	75% discount 201-250% FPL*
50% discount 351-400% FPL*	50% discount 251-300% FPL*

  - Assets may be considered for discounted categories (with limitations)
  - Medicaid eligibility and obligation to assist
  - New law applies to care provided on/after **July 1, 2022**

Important Change

Washington State Hospital Association

Discretionary sliding fee schedule replaced with mandatory discounts

Previous law: Patients 0-100% FPL is free to the patient,101-200% FPL receive discounted care based on sliding fee schedules established by each individual hospital

Change: **Increase free care thresholds. Replace hospital sliding fee schedule with mandatory discounts (which may be reduce based on asset consideration).**

Note: Hospitals may still choose to be more generous than the mandatory requirements.

Important Change

Washington State Hospital Association

Expansion of charity care eligibility—2 hospital tiers

Previous law: Same free and discounted care requirements apply to all hospitals licensed in Washington State

Change: Hospitals grouped into one of two tiers and each tier has specific requirements for free and discounted care

Impact: Hospitals must comply with free and discounted care requirements for appropriate tier

Note: Hospitals may still choose to be more generous than the mandatory requirements

Important Change

Washington State Hospital Association

Expansion of charity care eligibility and new groupings

Tier 1: **Hospitals owned or operated by a health system that owns or operates 3 or more acute care hospitals (also including Seattle Children's Hospital, Overlake Medical Center, EvergreenHealth Kirkland, and Legacy Salmon Creek)**	**Tier 2:** **All hospitals not in tier 1 (independent and small hospitals and behavioral health hospitals not owned by a system)**
Patients who are:	Patients who are:
0-300% FPL - Free care	0-200% FPL – Free care
301-350% FPL – 75% discount*	201-250% FPL – 75% discount*
351-400% FPL – 50% discount*	251-300% FPL – 50% discount*

Financial assistance applies to the patient responsibility portion of the bill.

* To indicate discount may reduced based on asset consideration (optional for hospitals)

Important Change

Washington State Hospital Association

Asset consideration

Hospitals may consider assets for those eligible for discounted care to reduce the discount extended.

- 301-400% FPL for tier 1 hospitals
- 201-300% FPL for tier 2 hospitals
- Similar to current law, **no** assets may be considered for patients eligible for free care

SHB 1616 adds a list of specific assets that are exempt from consideration

Asset consideration is optional

- Hospitals that consider assets must make an asset policy publicly available

Hospitals that consider assets may not place an "unreasonable burden" on the responsible party in seeking information.

Hospitals may collect any asset information necessary for Medicaid cost reporting

Important Change

Washington State Hospital Association

Assets exempt from consideration

The first $5000 in monetary assets for an individual, $8000 for a family of two, and $1500 of monetary assets for each additional family member

Equity in a primary residence

Retirement plans

(but 401(k) plans may be considered)

One motor vehicle

(and second motor vehicle if necessary for employment or medical purposes)

Prepaid burial contracts or burial plots

Life insurance policies with a face value of $10,000 or less

Important Change

Washington State Hospital Association

Identifying Patients Eligible for Medicaid and the Washington State Health Benefit Exchange

Hospitals must:

- Adopt procedures to identify patients and guarantors eligible for medical assistance programs under Medicaid or the Washington State health benefit exchange
- Assist the patient/guarantor in applying for available coverage

Hospitals may:

- Choose not to provide charity care to any patient/guarantor that is eligible for retroactive Medicaid coverage and does not make reasonable efforts to cooperate with the hospital in the Medicaid application process

Hospitals may not:

- Impose procedures that place an unreasonable burden on the patient/guarantor.

WSHA Resources to Help with Charity Care Compliance

- https://www.wsha.org/for-patients/financial-assistance/washingtons-charity-care-law/
- Standard charity care application and communication plan
- Model policy language
- Model signage
- Training resources

[Hospital/system name/logo]

Charity Care/Financial Assistance Application Form

Please fill out all information completely. If it does not apply, write "NA." Att

SCREENING INFORMATION

Do you need an interpreter? ☐ Yes ☐ No *If Yes, list preferred language:*

Has the patient applied for Medicaid? ☐ Yes ☐ No *May be required to apply before*

Does the patient receive state public services such as TANF, Basic Food, or WIC? ☐ Ye

Is the patient currently homeless? ☐ Yes ☐ No

Is the patient's medical care need related to a car accident or work injury? ☐ Yes ☐ N

PLEASE NOTE

- We cannot guarantee that you will qualify for financial assistance, even if you apply.
- Once you send in your application, we may check all the information and may ask for add
- Within 14 calendar days after we receive your completed application and documentation

PATIENT AND APPLICANT INFORMATION

Patient first name	Patient middle name	
☐ Male ☐ Female ☐ Other (may specify _____)	Birth Date	
Person Responsible for Paying Bill	Relationship to Patient	Birth Date

Mailing Address

City State Zip Code

Employment status of person responsible for paying bill

☐ **Employed** (date of hire: _____) ☐ **Unemployed** (how long un

☐ **Self-Employed** ☐ **Student** ☐ **Disabled** ☐ **Retired**

FAMILY INFORMATION

List family members in your household, including you. "Family" includes people relate together.

FAMILY SIZE _____

Name	Date of Birth	Relationship to Patient	If 18 years old or older: Employer(s) name or source of income

All adult family members' income must be disclosed. Sources of income include, for

- Wages - Unemployment - Self-employment - Worker's compensation - D
- Work study programs (students) - Pension - Retirement account distributions

Help with Hospital Bills: If you need help paying your bill, whether or not you have insurance, please contact our financial assistance office.

Ayuda con las cuentas de hospital: Si necesita ayuda con el pago de su cuenta, aunque tenga seguro o no, por favor póngase en contacto con nuestra oficina de ayuda financiera.

Trợ Giúp trả tiền cho những Hóa Đơn của Bệnh Viện: Nếu quý vị cần giúp trả tiền cho hóa đơn của quý vị, cho dù quý vị có bảo hiểm hay không, xin liên lạc với văn phòng trợ giúp tài chánh của chúng tôi.

Помощь со счетами из больницы: Если вам нужна помощь с оплатой вашего счета (независимо от того, есть ли у вас медицинская страховка или нет), пожалуйста, обратитесь в наш отдел финансовой помощи.

协助支付医院账单: 不论您有无保险，若需要协助支付账单，请与我们的财务资助办公室联系。

協助支付醫院帳單: 無論您是否有保險，若需要協助支付帳單，請與我們的財務資助處聯絡。

병원비 지원: 건강보험 소유 여부에 관계 없이 병원비를 지불하는 데 도움이 필요하신 분은 저희 재무 원조실 (financial assistance office)로 연락하십시오.

ជំនួយក្នុងវិក័យប័ត្រនៃមន្ទីរពេទ្យ: បើសិនជាអ្នកត្រូវការជំនួយក្នុងការបង់វិក័យប័ត្ររបស់អ្នក ទោះជាអ្នកមានឬគ្មានការធានារ៉ាប់រងថ្នែកពេទ្យក៏ដោយ សូមមេត្តាទាក់ទងមកការិយាល័យជំនួយថ្នែកហិរញ្ញវត្ថុរបស់យើង។

ການຊ່ວຍໃນການຈ່າຍຄ່າໂຮງໝໍ: ຖ້າທ່ານຕ້ອງການໃຫ້ຊ່ວຍໃນການຈ່າຍຄ່າໝໍຂອງທ່ານ, ເຖິງແມ່ນວ່າທ່ານຈະມີປະກັນໄພຫຼືບໍ່, ກະລຸນາ ຕິດຕໍ່ຫາຫ້ອງການຊ່ວຍເຫຼືອຝ່າຍການເງິນຂອງພວກເຮົາ.

Federal Transparency Law

Transparency Requirements (Effective January 1, 2021)

- Machine readable file of standard and negotiated rates for nearly all services and payors
- Consumer-friendly “shoppable services”

- Mechanism for CMS to monitor and enforce
  - Warning letters
  - Corrective action plans
  - Civil monetary penalties

Transparency Requirements (Effective January 1, 2021)

- Interested parties are seeking to compel HHS to release names of all hospitals that have received warning letters

- US Office of the Inspector General (OIG) recently released workplan that includes oversight and monitoring of hospital compliance

Transparency Requirements (Effective January 1, 2021)

Various organizations are publishing their own scorecards on hospital compliance of the federal transparency law and are getting lots of attention from media and policymakers. They include:

- https://www.patientrightsadvocate.org/state-by-state-hospital-compliance
- https://turquoise.health/mrf_transparency_score

Transparency Requirements (Effective January 1, 2021)

CMS is officially the sole determiner and enforcer of compliance, but hospitals may want to review these scorecards and see if there are omitted elements that can be updated, such as:

- Full range of negotiated services
- Full range of negotiated payors/including specific products
- Alignment of rates between machine readable file and shoppable services

Hospitals should also be prepared to respond to media and/or policymakers regarding their compliance.

Balance Billing Protection Act and No Surprises Act

Original Balance Billing Protection Act (BBPA)

- Applies to state-regulated insurance (individual and small group, PEBB and SEBB).
- ERISA self-funded groups can voluntarily opt-in
- Balance billing prohibition applies to:
  - Emergency services
  - Out of network services provided at an in-network hospital or facility
- “Commercially reasonable” payment standard
- State administered arbitration dispute resolution process
- Standard notice of consumer rights

No Surprise Act (NSA)

- Applies to nearly all insurance other than Medicare and Medicaid (including ERISA groups)
- Balance billing prohibition applies to:
  - Emergency services
  - Out of network services provided at an in-network hospital or facility
  - Air ambulance
- “Insurer’s own median rate” payment standard
- Federally administered arbitration dispute resolution process
- Numerous new notification requirements (Good faith estimate, advanced EOB, etc.)

House Bill 1688

- Reconciles conflicting provisions of BBPA and NSA
- Extends BBPA through June 2023, may be extended at the discretion of the Insurance Commissioner. BBPA supersedes NSA where there is overlap
- Aligns definition of emergency with NSA to include post-stabilization services
- Aligns NSA and BBPA arbitration language, but still separate processes
- Extends balance billing protections to crisis and emergency behavioral health services and providers
- Does not allow patient waiver of balance billing protections

BBPA versus NSA

Insurance Category or Service	Balance Billing Protection Act (State) (Through at least 7/1/2023)	No Surprises Act (Federal)
State-Regulated Commercial Insurance Public Employees Benefits Board School Employees benefits Board	X	
Self-Funded ERISA Groups that have elected BBPA	X	
Other Self-Funded ERISA Groups		X
Air Ambulance (All Commercial Insurance)		X
Behavioral Health Emergency Services Providers (State Regulated Insurance and Self-Funded Groups that have elected BBPA Only)	X	

HB 1688 Rulemaking and APCD reporting

- CR-102 Released with comments due November 28
  - WSHA Concern: Definition of “outpatient hospital department”
  - WSHA was concerned the definition in prepublication draft rule was overly broad and could be applied to freestanding clinics. The definition is improved in proposed rule
  - More information in recent Fiscal Watch article
- APCD reports being updated to include post-stabilization and crisis behavioral health services

NSA Notification Requirements

- Good faith estimates for all uninsured and self pay patients
  - Required if service scheduled 3 or more days in advance
  - Patient can dispute if charges are >$400 more than the estimate
  - Coming: combined GFE (including surgeon, facility, anesthesiologist, etc.) responsible of convening provider

- Advanced Explanation of Benefits requirement for insured patients
  - Insurers will provide estimate of payments to patient based on providers' estimates of charges
  - CMS requesting input on process

NSA Independent Dispute Resolution Process

- A new online portal has been established for parties to submit disputes
- Despite successful Texas lawsuit, insurer's calculation of median payment still heavily weighed by arbitrators
- Demand for arbitration currently exceeding capacity with some arbitrator entities no longer accepting new cases

Additional Resources

WSHA Fiscal Watch

WSHA Bulletins

WSHA New Law Implementation Guide

WSHA Regulatory Updates and Rule Tracker

Also, see resources from AHA (NSA implementation guide) and PYA (free on-demand webinars and guides on NSA and transparency)

Washington State Hospital Association

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