



Department of Health

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October 18, 2024

DAL CPSO 2024-01

Dear Hospital Chief Executive Officer:

On April 20, 2024, Section 2807-k of the Public Health Law was amended to limit what hospitals in New York can charge eligible patients for emergency and medically necessary services. All hospitals are responsible for understanding the changes made to this law.

All hospitals in New York licensed by the Department of Health (DOH) are covered by this law and are required to use the Uniform Hospital Financial Assistance form, regardless of participation in the Indigent Care Pool. Facilities which are licensed only by other state agencies, such as the Office of Mental Health, are not covered by this law.

Additionally, there have been updates to consumer protections when paying for medical services in both Public Health Law (§ 18C) and New York General Business Law (§ 349-G and 519-A), which apply to all patients, regardless of eligibility for financial assistance.

The information in this letter summarizes the changes to the existing law, effective October 20, 2024. All services provided on or after this date will be subject to the required changes.

SUMMARY OF CHANGES:

Category	PREVIOUS LAW (in effect until 10/19/24)	CHANGES TO LAW (effective 10/20/24)
Covered Services		Patients cannot be denied admission or treatment / services because of an unpaid medical bill.
Application	Hospitals have flexibility to create financial assistance application form for patients. Patients must be notified of financial assistance during the intake and registration process.	Use of the Uniform Financial Assistance Application is required for all hospitals (regardless of participation in Indigent Care Pool). Patients must be notified of financial assistance in writing at the intake and registration process and at discharge.
Patient Eligibility	Patients without health insurance and earning up to 300%FPL are eligible for financial assistance.	Patients earning up to 400%FPL are eligible for financial assistance. Patients who have health insurance, but have spent more than 10% of their income on out-of-pocket medical

	<p>Patients must apply for financial assistance within 90 days of receiving bill.</p> <p>Hospitals may consider patient's assets when determining eligibility for financial assistance.</p>	<p>expenses, are also eligible for financial assistance.</p> <p>Patients may apply for financial assistance at any point, including during the collections process.</p> <p>Patient's assets may not be considered when reviewing eligibility for financial assistance.</p> <p>Immigration status may not be considered for eligibility.</p>
Discount Schedule	<p>Discount schedule offered off of fee from highest volume payor.</p> <p>Monthly payment plans for patient medical bills may not exceed 10% of patient's income.</p>	<p>Discount schedule based on percentage of Medicaid rate. New discount structure outlined below to reflect updated eligibility criteria.</p> <p>Monthly payment plans for patient medical bills may not exceed 5% of patient's income</p>
Collections		<p>Hospitals may not sell patient debt to a third party unless the third party will relieve the debt.</p> <p>Hospitals are prohibited from bringing lawsuits against patients earning up to 400% FPL to collect on unpaid medical bills.</p>
Reporting	<p>Hospitals must report to the Department of Health the number of people that have applied for financial assistance annually.</p>	<p>Hospitals must report to the Department of Health the number of people that have applied for financial assistance annually, including their age, gender, race, ethnicity, and insurance status (aggregated data).</p>

Covered Services

This law covers all of the medical services offered by the hospital. This includes:

- Inpatient services;
- Emergency room visits; and
- Other outpatient visits, such as to clinics operated by the hospital.

Patients may not apply for financial assistance with bills from any service that is **not** provided by the hospital and/or people directly in the hospital's employ. For example, if a patient is treated by a physician working at the hospital but who is not a salaried employee of the hospital, the physician may bill the patient separately for the physician's services.

Patients cannot be denied medically necessary treatment or services because of an unpaid medical bill.

Application for Financial Assistance

All general hospitals must utilize the New York State Uniform Financial Assistance Application for patients applying for financial assistance. All hospitals must use this form regardless of their participation in the Indigent Care Pool.

Hospitals are responsible for adding in appropriate contact information on the application; should patients have questions or need assistance with completing the application.

Hospitals are also responsible to update the amounts of the Federal Poverty Level on an annual basis.

Patients may apply for financial assistance at any point, starting from the date of service and throughout the collections process.

Patient Eligibility

Hospitals should assume that patients are eligible for financial assistance through the hospital's program for emergency services for residents of New York State, and for all other services, if they reside within the hospital's primary service area. Nothing prohibits hospitals from providing financial assistance to patients outside of the hospital's primary service area.

Patients without insurance and earning up to 400% FPL, and "underinsured" patients earning up to 400% FPL are eligible to apply for financial assistance.

"Underinsured" is defined as patients whose paid medical expenses have exceeded 10% of their income in the last 12 months.

- Income is assessed as the gross monthly income of the household, before expenses.
- Paid medical expenses refer to any out-of-pocket costs for emergency or medically necessary care (i.e. deductibles, copays, coinsurance, deposits, etc.), but do not include the cost of health insurance premiums.
 - o If care totaling more than 10% of a patient's income was received at the hospital at which the patient is applying for financial assistance, hospitals may use a patient's account to determine eligibility. Otherwise, patients must provide proof of paid bills or other documentation to indicate that medical expenses were paid.

Immigration status shall not be considered when determining eligibility.

Patient's assets (such as house, car, etc.) may not be considered. Eligibility for financial assistance is determined solely on household income.

Patients cannot be required to pay a hospital bill while their application for financial assistance is being considered and can request to apply for financial assistance at any point, including during the collections process.

Hospitals may require that patients first apply for Medicaid, Essential Plan, or other public insurance programs (provided their immigration status does not make the patient ineligible for any of these programs).

Discount Schedule

As described above, uninsured or underinsured patients earning up to 400% FPL are eligible for free or discounted care.

Hospitals are required to establish a "sliding scale," depending on the patient's income level, and to comply with the ranges defined below. The level of discount from a hospital's regular charges depends on the patient's income -- the more the patient's income falls below 400% of the federal poverty level, the higher the discount the hospital must provide. The minimum required discount schedule is outlined below:

Income Level	Payment
Below 200% FPL	Waive all charges
200% - 300% FPL	Uninsured patients: Sliding scale up to 10% of the amount that would have been paid for the service(s) by Medicaid. Underinsured patients: Up to a maximum of 10% of the amount that would have been paid pursuant to such patient's insurance cost sharing.
301% - 400% FPL	Uninsured patients: Sliding scale up to 20% of the amount that would have been paid for the service(s) by Medicaid Underinsured patients: Up to a maximum of 20% of the amount that would have been paid pursuant to such patient's insurance cost sharing.

Nothing prohibits hospitals from providing financial assistance with steeper discounts or at income levels higher than the ones outlined here.

Hospital financial assistance policies must include installment plans for patients who are unable to pay the reduced payment all at one time.

Any interest on unpaid debt cannot exceed 2% (and nothing can trigger a higher interest rate if payment is missed).

Any monthly payment plans established by the hospital cannot exceed 5% of the patients' gross monthly income.

Collections Policies

Patients cannot be required to pay a hospital bill while their application for financial assistance is being considered and can request to apply for financial assistance at any point, including during the collections process.

Lawsuits to collect unpaid balances cannot be brought before 180 days from the first medical bill, regardless of a patient's eligibility for financial assistance. Lawsuits are prohibited against patients under 400% FPL.

To initiate legal action against a patient, the Chief Financial Officer of the hospital must provide a signed attestation that the hospital has determined the patient's income to be above 400% FPL.

Hospitals are prohibited from selling any patient debt, regardless of eligibility for financial assistance, to a third party, unless the third party intends to forgive all debt and does not intend to pursue any collections. The hospital is responsible for determining that any debt buyer is doing so for the express purpose of absolving the debt.

Reporting

Hospitals must report to the Department of Health the number of people that have applied for financial assistance annually, including their age, gender, race, ethnicity, and insurance status (aggregated data).

Enforcement

All hospitals participating in the Indigent Care Pool will continue to have funds withheld in a financial assistance compliance pool until they can demonstrate compliance with the financial assistance law. The Department may additionally impose civil penalties of up to \$10,000 for each failure to comply with the provisions of the financial assistance law. It is expected that each facility will review/amend, as appropriate, its financial assistance policies to conform to the elements outlined above. Policies found to be inconsistent with the information detailed in this letter are non-compliant with State law.

NEW CONSUMER PROTECTIONS, EFFECTIVE 10/20/24

The following is a summary of changes to Public Health Law (§ 18C) and New York General Business Law (§ 349-G and 519-A), that will go into effect on 10/20/24. All patients receiving direct health care services, regardless of income level, eligibility for financial assistance, or the type of provider from which the patient receives direct health care services, are covered by this law.

1) Separating consent to treat / consent to pay

The Department of Health has received outreach and questions from a variety of stakeholders about the meaning of this provision. While the Department considers these questions, the implementation of **this provision** is on hold until further guidance is released.

2) Medical Financial Product Applications

- a. Medical financial products are medical credit cards or third-party medical installment loans.
 - i. A medical credit card is a credit card issued under an open-end or closed-end plan offered specifically for the payment of health care services, products, or devices provided to a person.

- b. It is prohibited for any hospital, health care provider, or employee/agent of a hospital or health care provider to complete any portion of an application for medical financial products for the patient, or otherwise arrange for or establish an application that is not completely filled out by the patient. Providers may answer patient's questions and provide assistance if requested, so long as the application is completed wholly by the patient.

3) Credit card pre-authorization

- a. No hospital or health care provider shall require credit card pre-authorization or require the patient to have a credit card on file prior to rendering emergency or necessary medical services.
- b. Health care providers may ask patients to voluntarily choose to have a credit card on file but may not require patients to do so.

4) Credit card risk notification

- a. **Each** time a credit card is used to pay for services, patients must be notified of the risks of paying for medical services with a credit card; including:
 - i. Medical bills paid by credit card are no longer considered medical debt.
 - ii. By paying with a credit card, patients are forgoing federal and state protections around medical debt.
 - iii. Protections that patients must acknowledge forgoing include:
 - 1. Prohibitions against wage garnishment and property liens
 - 2. Prohibition against reporting medical debt to credit bureaus
 - 3. Limitations on interest rates
 - iv. Patients must affirmatively acknowledge forgoing these protections by paying with a credit card.

Sincerely,

[Electronically signed]
MARK HENNESSEY
Director
Center for Health Care Provider
Services and Oversight

NYS Uniform Hospital Financial Assistance Application

You may be eligible for hospital financial assistance to pay your bills if you are uninsured, if your insurance is exhausted, or if you have health insurance but have proof of paid medical expenses totaling more than 10% of your income. Completing this form will start your request for hospital financial assistance. This form is used by all hospitals in New York State.

This application must be printed in the primary¹ languages spoken by patients served by the hospital.

Patient Name (complete information that is applicable)

Patient Name (First, Middle, Last)		
Date of Birth (mm/dd/yyyy)		
Address	Apartment/Unit #	
City	State	Zip
Contact Phone #		
Parent/Guardian or Lawful Representative Name (if patient is a minor child or an incapacitated adult)		
Email Address (if any)		

Family Information:

Please list below all family members in your household. Your household includes yourself, your spouse or domestic partner, and any children or other dependents. For example, this would include everyone listed on the same tax return.

Gross income means your income **before** taxes are deducted.

Gross income can consist of work earnings (wages, salaries, tips, earnings from self-employment), unearned income (social security, disability, and unemployment benefits), contributions (funds from family or friends), and other sources of income (temporary assistance and supplemental security income).

Full Name	Relationship	Total Gross Income (Current)
	Self	

¹ "Primary languages" includes any language that is used to communicate in at least 5% of patient visits per year, or any language spoken by more than 1% of the primary hospital service area population, as calculated using demographic information available from the United States Bureau of the Census, supplemented by data from school systems.

The hospital may request you submit documentation as proof of income; examples of documentation might include a pay stub, a letter from your employer if applicable, or Form 1040.

Health Insurance Status

Do you have any form of health insurance, including Medicaid, Medicare, or private insurance through your employer or purchased on your own? Yes No

If you answered “No,” would you like assistance in applying for any of these programs?

Yes No

Underinsured patients: people with insurance and high medical expenses. If you have insurance, please provide an estimate of the medical bills you paid in the past 12 months.

\$

The hospital may request you submit documentation as proof of paid medical expenses.

Patient/Responsible Party: If not the patient, list the name of the person signing the form and their authority to sign on behalf of the patient (e.g., spouse, parent, legal representative).

I understand that the information I submit may be subject to verification from external sources. I certify that the information is true and complete to the best of my knowledge.

Print Name	Date
Relationship to Patient	
Signature	

Minimum Eligibility and Guidelines

Application Timeline, Patient Rights, and Confidentiality

- You can apply for financial assistance at any point during the collection process.
- You do not have to make any payment to this hospital until you receive a decision on your application for financial assistance. Hospitals may not forward accounts to collection while your application is pending.
- If you are denied financial assistance, you have the right to appeal. Information on how to do so will be included in the hospital's notice you receive. You may have the right to appeal the amount of your financial assistance. The hospital will include information about how to appeal in their decision letter.
- Hospitals cannot send unpaid bills to a collection agency for at least 180 days after your first bill.
- Hospitals are prohibited from taking legal action, including filing lawsuits, to recover unpaid medical bills for patients below 400% of the federal poverty level. Poverty guidelines can be found here: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>
- Any information provided in this application will only be used by the hospital to determine your eligibility for financial assistance and will remain confidential to the extent permitted by law.
- A hospital cannot deny you medically necessary services because you have an outstanding medical bill.
- If you need assistance with this application, please contact (HOSPITAL NAME)'s financial assistance office at (PHONE NUMBER).
- If you need additional assistance with this application or help appealing a decision, you can reach out to Community Health Advocates: 888-614-5400.

Eligibility

Nothing limits a hospital's ability to establish patient eligibility for payment discounts at income levels higher than those specified below and/or to provide greater payment discounts for eligible patients than those required by Public Health Law. Additionally, immigration status shall not be an eligibility criterion for the purpose of determining financial assistance.

The following individuals are eligible:

- Low-income individuals without health insurance; or
- underinsured individuals (out-of-pocket medical costs accumulated in the past twelve months that amount to more than ten percent of such individual's gross annual income); or
- those who have exhausted their health insurance benefits, and who can demonstrate an inability to pay full charges; or
- at the hospital's discretion, individuals who can demonstrate an inability to pay their co-pay and/or deductible can request a reduced or discounted payment.

Individuals up to 400% of the federal poverty level are eligible for financial assistance.

Federal Poverty Levels (2024)			
Household Size	200%	300%	400%
1 Person	\$30,120	\$45,180	\$60,240
2 Persons	\$40,880	\$61,320	\$81,760
3 Persons	\$51,640	\$77,460	\$103,280
4 Persons	\$62,400	\$93,600	\$124,800
5 Persons	\$73,160	\$109,740	\$146,320
6 Persons	\$83,920	\$125,880	\$167,840
7 Persons	\$94,680	\$142,020	\$189,360

Updated annually: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

Minimum Discount Rates

If you qualify for financial assistance, your charges will be reduced according to your income on a sliding fee scale as follows:

Income Level	Payment
Below 200% FPL	Waive all charges
200% - 300% FPL	<p>Uninsured patients: Sliding scale up to 10% of the amount that would have been paid for the service(s) by Medicaid.</p> <p>Underinsured patients: Up to a maximum of 10% of the amount that would have been paid pursuant to such patient's insurance cost sharing.</p>
301% - 400% FPL	<p>Uninsured patients: Sliding scale up to 20% of the amount that would have been paid for the service(s) by Medicaid.</p> <p>Underinsured patients: Up to a maximum of 20% of the amount that would have been paid pursuant to such patient's insurance cost sharing.</p>

Hospitals may choose to provide greater discounts for eligible patients and/or offer payment discounts for patients at higher income levels.

Installment Plans

Installment plans are available to patients who are unable to pay the reduced rate all at one time. Monthly payments cannot exceed 5% of your gross monthly income and the rate of interest charged to the patient on the unpaid balance, if any, shall not exceed 2%.

Request for Proof of Household Income

Please include the income information for the patient, their spouse, and any dependents (such as children). For example, this would include everyone on the same tax return (tax filer, spouse, and tax dependents) in the calculation of household income.

The following is a list of documents you can use to prove your income. You do not have to provide all these documents. You can also provide a statement of no household income if you have no income.

You may also provide the Eligibility determination page from the NY State of Health Marketplace. If you have this document, you do not have to provide any other income information listed below to the hospital.

<u>If Household Receives:</u>	<u>Amount per Month:</u>	<u>Applicant May Provide:</u>
Wages	\$	Please provide one Paycheck Stub, or Letter from Employer on company letterhead, signed and dated, or most recently filed income tax return.
Social Security Payment	\$	Copy of award letter/certificate, or correspondence from the U.S. Social Security Administration, or annual benefit letter. To request a copy of your Social Security benefit letter, call 1-800-772-1213 or visit www.ssa.gov .
Unemployment Compensation	\$	Copy of award letter/certificate, or monthly benefit statement from NYS Department of Labor, or Copy of Direct Payment Card with printout, or Correspondence from the NYS Department of Labor, or Printout of recipient's account information from the NYS Department of Labor's website (www.labor.state.ny.us).
Disability Payment	\$	Copy of award letter/certificate, or correspondence from Social Security Administration, or copy of annual benefit letter. To request a copy of your benefit letter, call 1-800-772-1213 or visit www.ssa.gov .
Workers Compensation	\$	Copy of Award Letter or Check stub.
Alimony/Child Support	\$	Copy of court order, or 3 months of cashed checks/receipts.
Dividends/Interest	\$	Quarterly dividend statements or 1 month statements.
Other	\$	Letter stating the amount of non-wage earnings (if any), such as rental income, cash for odd jobs, etc.
No Income	\$0	Signed statement of no income.