

AMENDATORY SECTION (Amending WSR 94-12-089, filed 6/1/94, effective 7/2/94)

WAC 246-453-001 Purpose. This chapter is adopted by the Washington state department of health to implement the provisions of chapter 70.170 RCW. These sections relate to hospital policies for charity care, bad debt and emergency medical care, including admission practices ~~((, the compilation and measurement of the level of charity care services provided by each hospital,))~~ and penalties for violation of these provisions.

AMENDATORY SECTION (Amending WSR 94-12-089, filed 6/1/94, effective 7/2/94)

WAC 246-453-010 Definitions. ~~((As used in this chapter, unless the context requires otherwise,~~

(1) ~~"Department" means the Washington state department of health created by chapter 43.70 RCW;~~

(2) ~~"Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW;~~

(3) ~~"Manual" means the Washington State Department of Health Accounting and Reporting Manual for Hospitals, adopted under WAC 246-454-020;~~

(4) ~~"Indigent persons" means those patients who have exhausted any third-party sources, including medicare and medicaid, and whose income is equal to or below 200% of the federal poverty standards, adjusted for family size or is otherwise not sufficient to enable them to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payor;~~

(5) ~~"Charity care" means appropriate hospital-based medical services provided to indigent persons, as defined in this section;~~

(6) ~~"Bad debts" means uncollectible amounts, excluding contractual adjustments, arising from failure to pay by patients whose care has not been classified as charity care;~~

(7) ~~"Appropriate hospital-based medical services" means those hospital services which are reasonably calculated to diagnose, correct, cure, alleviate, or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the person requesting the service. For purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all;~~

(8) ~~"Medical staff" means physicians, dentists, nurses, and other professional individuals who have admitting privileges to the hospital, and may also participate as members of the medical staff committees, serve as officers of the medical staff, and serve as directors or chiefs of hospital departments;~~

(9) ~~"Third-party coverage" and "third-party sponsorship" means an obligation on the part of an insurance company or governmental program which contracts with hospitals and patients to pay for the care of~~

covered patients and services, and may include settlements, judgments, or awards actually received related to the negligent acts of others which have resulted in the medical condition for which the patient has received hospital services;

(10) "Unusually costly or prolonged treatment" means those services or combinations of services which exceed two standard deviations above the average charge, and/or three standard deviations above the average length of stay, as determined by the department's discharge database;

(11) "Emergency care or emergency services" means services provided for care related to an emergency medical or mental condition;

(12) "Emergency department" and "emergency room" means that portion of the hospital facility organized for the purpose of providing emergency care or emergency services;

(13) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(a) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

(b) Serious impairment of bodily functions;

(c) Serious dysfunction of any bodily organ or part.

With respect to a pregnant woman who is having contractions the term shall mean:

(d) That there is inadequate time to effect a safe transfer to another hospital before delivery; or

(e) That transfer may pose a threat to the health or safety of the woman or the unborn child;

(14) "Responsible party" means that individual who is responsible for the payment of any hospital charges which are not subject to third-party sponsorship;

(15) "Limited medical resources" means the nonavailability of services or medical expertise which are required or are expected to be required for the appropriate diagnosis, treatment, or stabilization per federal requirements of an individual's medical or mental situation;

(16) "Publicly available" means posted or prominently displayed within public areas of the hospital, and provided to the individual in writing and explained, at the time that the hospital requests information from the responsible party with regard to the availability of any third-party coverage, in any language spoken by more than ten percent of the population in the hospital's service area, and interpreted for other non-English speaking or limited-English speaking or other patients who can not read or understand the writing and explanation;

(17) "Income" means total cash receipts before taxes derived from wages and salaries, welfare payments, Social Security payments, strike benefits, unemployment or disability benefits, child support, alimony, and net earnings from business and investment activities paid to the individual;

(18) "Family" means a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family;

(19) "Initial determination of sponsorship status" means an indication, pending verification, that the services provided by the hospital may or may not be covered by third party sponsorship, or an indication from the responsible party, pending verification, that he or

she may meet the criteria for designation as an indigent person qualifying for charity care; and

(20) "Final determination of sponsorship status" means the verification of third party coverage or lack of third party coverage, as evidenced by payment received from the third party sponsor or denial of payment by the alleged third party sponsor, and verification of the responsible party's qualification for classification as an indigent person, subsequent to the completion of any appeals to which the responsible party may be entitled and which on their merits have a reasonable chance of achieving third-party sponsorship in full or in part.) The definitions in this section and in RCW 70.170.020 apply throughout this chapter unless the context clearly requires otherwise:

(1) "Bad debts" means uncollectible amounts, excluding contractual adjustments, arising from failure to pay by patients whose care has not been classified as charity care.

(2) "Collection efforts" means any request or demand for any payment, including a deposit, or communication or transmission of account documents or information that is not clearly identified as being intended solely for the purpose of providing information to the responsible party and not for the purpose of requesting or demanding payment.

(3) "Department" means the department of health.

(4) "Emergency care" means health care services provided to evaluate or treat an emergency medical condition or active labor.

(5) "Emergency department" means that portion of the hospital facility organized for the purpose of providing emergency care.

(6) "Family" means a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family.

(7) "Income" means total cash-based receipts before taxes derived from earnings, unemployment compensation, workers' compensation, social security, supplemental security income, public assistance, veterans' payments, survivor benefits, pension or retirement income, interest, dividends, rents, royalties, income from estates, trust distributions, educational assistance, spousal maintenance, and child support paid to the responsible party.

(8) "Medically necessary hospital health care" means those hospital services which are reasonably calculated to diagnose, correct, cure, alleviate, or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a disability, or cause physical distortion or malfunction of any part or of the body in general, and for which there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the person requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

(9) "Responsible party" means that individual who is responsible for the payment of any hospital charges that are not subject to third-party coverage.

NEW SECTION

WAC 246-453-015 Minimum standards for notification of charity care availability. Each hospital must:

(1) Post and prominently display notice of charity care availability for medically necessary hospital health care in at least all languages spoken by more than 10 percent of the population of the hospital service area within public areas of the hospital, including at least the following:

- (a) Areas where patients are admitted or registered;
- (b) Emergency departments, if any; and
- (c) Financial service or billing areas accessible to patients;

(2) Provide written and oral notice of charity care availability for medically necessary hospital health care to every responsible party at the time that the hospital requests information from the responsible party about the availability of any third-party coverage;

(3) Post to the hospital's website current versions of the hospital's approved charity care policy, a plain language summary of the hospital's charity care policy, and the hospital's charity care application form, of which the summary and application form must be available in at least all languages spoken by more than 10 percent of the population of the hospital service area;

(4) Include on all hospital billing statements and other written communications concerning billing or collection of a hospital bill the following or a substantially similar statement prominently displayed on the first page of the statement in at least both English and the second most spoken language in the hospital's service area:

"You may qualify for free care or a discount on your hospital bill, whether or not you have insurance. Please contact our financial assistance office at [website] and [phone number].";

(5) Comply with hospital obligations under federal and state laws to provide meaningful access for limited-English proficiency and non-English-speaking patients that apply to information regarding billing and charity care;

(6) Develop standardized training programs on the hospital's charity care policy and use of interpreter services, and provide regular training for appropriate staff, including the relevant and appropriate staff who perform functions relating to registration, admissions, or billing; and

(7) Comply with all directions issued by the department concerning the provision of any notice required under this section and provide any other notice as directed by the department.

NEW SECTION

WAC 246-453-019 Procedures for determination of charity care eligibility. (1) Each hospital must implement the procedures provided in WAC 246-453-020 and 246-453-021 and comply with this section.

(2) A hospital may initiate collection efforts directed at a responsible party only as permitted in WAC 246-453-020 and 246-453-021 and only if the hospital has complied with the requirements of this chapter and chapter 70.170 RCW.

(3) Eligibility for charity care shall not be based, in whole or in part, on the patient's or responsible party's place of residence.

(4) Hospitals may not impose procedures that place an unreasonable burden upon the responsible party, taking into account any physical, mental, intellectual, or sensory deficiencies, language barriers, or other personal circumstances which may hinder the responsible party's capability of complying with hospital policy and procedures.

(5) For good cause, upon the request of a responsible party, a hospital must provide a reasonable extension of any applicable deadline.

(6) A hospital's charity care procedures must permit a responsible party to make submissions to the hospital by all reasonable means, including by using only a smartphone.

(7) A responsible party is deemed to have made a submission by mail or other shipping service on the date sent.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

WAC 246-453-020 ~~((Uniform procedures for the identification of indigent persons.))~~ Procedures for initial determination of charity care eligibility. ~~((For the purpose of identifying those patients that will be classified as indigent persons, all hospitals shall adopt and implement the following procedures:~~

~~(1) The initiation of collection efforts directed at the responsible party shall be precluded pending an initial determination of sponsorship status, provided that the responsible party is cooperative with the hospital's efforts to reach an initial determination of sponsorship status;~~

~~(a) Collection efforts shall include any demand for payment or transmission of account documents or information which is not clearly identified as being intended solely for the purpose of transmitting information to the responsible party;~~

~~(b) The initial determination of sponsorship status shall be completed at the time of admission or as soon as possible following the initiation of services to the patient;~~

~~(c) If the initial determination of sponsorship status indicates that the responsible party may meet the criteria for classification as an indigent person, as described in WAC 246-453-040, collection efforts directed at the responsible party will be precluded pending a final determination of that classification, provided that the responsible party is cooperative with the hospital's reasonable efforts to reach a final determination of sponsorship status;~~

~~(d) During the pendency of the initial determination of sponsorship status and/or the final determination of the applicability of indigent person criteria, hospitals may pursue reimbursement from any third-party coverage that may be identified to the hospital;~~

~~(e) The requirements of this subsection shall not apply to clinics operated by disproportionate share hospitals, as defined and identified by the department of social and health services, medical assistance services, provided that patients are advised of the availability of charity care at the time that services are provided and when presented with a request for payment.~~

~~(2) Notice shall be made publicly available that charges for services provided to those persons meeting the criteria established within WAC 246-453-040 may be waived or reduced.~~

~~(3) Any responsible party who has been initially determined to meet the criteria identified within WAC 246-453-040 shall be provided with at least fourteen calendar days or such time as the person's medical condition may require, or such time as may reasonably be necessary to secure and to present documentation as described within WAC 246-453-030 prior to receiving a final determination of sponsorship status.~~

~~(4) Hospitals must make every reasonable effort to determine the existence or nonexistence of third-party sponsorship that might cover in full or in part the charges for services provided to each patient.~~

~~(5) Hospitals may require potential indigent persons to use an application process attesting to the accuracy of the information provided to the hospital for purposes of determining the person's qualification for charity care sponsorship. Hospitals may not impose application procedures for charity care sponsorship which place an unreasonable burden upon the responsible party, taking into account any physical, mental, intellectual, or sensory deficiencies or language barriers which may hinder the responsible party's capability of complying with the application procedures. The failure of a responsible party to reasonably complete appropriate application procedures shall be sufficient grounds for the hospital to initiate collection efforts directed at the patient.~~

~~(6) Hospitals may not require deposits from those responsible parties meeting the criteria identified within WAC 246-453-040 (1) or (2), as indicated through an initial determination of sponsorship status.~~

~~(7) Hospitals must notify persons applying for charity care sponsorship of their final determination of sponsorship status within fourteen calendar days of receiving information in accordance with WAC 246-453-030; such notification must include a determination of the amount for which the responsible party will be held financially accountable.~~

~~(8) In the event that the hospital denies the responsible party's application for charity care sponsorship, the hospital must notify the responsible party of the denial and the basis for that denial.~~

~~(9) All responsible parties denied charity care sponsorship under WAC 246-453-040 (1) or (2) shall be provided with, and notified of, an appeals procedure that enables them to correct any deficiencies in documentation or request review of the denial and results in review of the determination by the hospital's chief financial officer or equivalent.~~

~~(a) Responsible parties shall be notified that they have thirty calendar days within which to request an appeal of the final determination of sponsorship status. Within the first fourteen days of this period, the hospital may not refer the account at issue to an external collection agency. After the fourteen day period, if no appeal has been filed, the hospital may initiate collection activities.~~

~~(b) If the hospital has initiated collection activities and discovers an appeal has been filed, they shall cease collection efforts until the appeal is finalized.~~

~~(c) In the event that the hospital's final decision upon appeal affirms the previous denial of charity care designation under the criteria described in WAC 246-453-040 (1) or (2), the responsible party and the department of health shall be notified in writing of the deci-~~

sion and the basis for the decision, and the department of health shall be provided with copies of documentation upon which the decision was based.

(d) The department will review the instances of denials of charity care. In the event of an inappropriate denial of charity care, the department may seek penalties as provided in RCW 70.170.070.

(10) Hospitals should make every reasonable effort to reach initial and final determinations of charity care designation in a timely manner; however, hospitals shall make those designations at any time upon learning of facts or receiving documentation, as described in WAC 246-453-030, indicating that the responsible party's income is equal to or below two hundred percent of the federal poverty standard as adjusted for family size. The timing of reaching a final determination of charity care status shall have no bearing on the identification of charity care deductions from revenue as distinct from bad debts.

(11) In the event that a responsible party pays a portion or all of the charges related to appropriate hospital-based medical care services, and is subsequently found to have met the charity care criteria at the time that services were provided, any payments in excess of the amount determined to be appropriate in accordance with WAC 246-453-040 shall be refunded to the patient within thirty days of achieving the charity care designation.)) Each hospital must implement the following procedures for making an initial determination of charity care eligibility:

(1) The hospital must ask every responsible party what third-party coverage the patient has, if any, and request the minimum information necessary for the hospital to determine the extent of available coverage and seek reimbursement.

(2) The hospital must implement procedures for identifying responsible parties 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 responsible party is qualified for retroactive health care coverage through the medical assistance programs under chapter 74.09 RCW, a hospital shall assist the responsible party with applying for such coverage. If a hospital determines that a responsible party 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 to any responsible party if the responsible party 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 assistance with retroactive coverage applications which place an unreasonable burden upon the responsible party, taking into account any physical, mental, intellectual, or sensory deficiencies, language barriers, or other personal circumstances which may hinder the responsible party's capability of complying with application procedures. It is an unreasonable burden to require a responsible party 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.

(3) The hospital must offer every responsible party the opportunity to obtain an initial determination of charity care eligibility. If the responsible party accepts, the hospital must permit the responsible party to choose to provide information orally or by completing a standard form in their preferred language. If the responsible party provides information orally, the hospital must use the information to

complete the standard form in the responsible party's preferred language and provide the responsible party an opportunity to review the form and make changes. The hospital must request the following information from the responsible party:

(a) Whether the responsible party is currently enrolled in a means-tested state or federal public assistance program with a qualifying income threshold of 200 percent of the federal poverty level or lower;

(b) A sum total estimate of the responsible party's annual family income;

(c) The full name, contact information, and other relevant identifying information of the responsible party, and, if different, the patient; and

(d) The responsible party's preferred method of receiving subsequent communications about the charity care eligibility determination process, whether mail, email, and/or electronic record.

(4) The hospital must assist the responsible party with completing the initial determination form as needed and provide the responsible party with clear written guidance in their preferred language on what public assistance programs meet the criteria in subsection (3) of this section and how annual family income is determined under applicable law.

(5) The hospital may require the responsible party to attest to the accuracy of the information provided.

(6) In making an initial determination of charity care eligibility, the hospital must rely on the information the responsible party provides under subsection (3) of this section and may not request any additional documentation or information.

(7) Provided that the hospital has complied with all applicable requirements, the hospital may initiate collection efforts directed at a responsible party who expressly declines to obtain an initial determination of charity care eligibility, starts the initial determination process but fails to make reasonable efforts to cooperate with the hospital's efforts to complete the process, or fails to make reasonable efforts to cooperate with the hospital's efforts to assist the responsible party in applying for retroactive health care coverage under subsection (2) of this section. The hospital shall provide the responsible party notice prior to initiating collection efforts. If the responsible party does not request an initial determination or begin making reasonable efforts to cooperate within 14 days of receiving notice, the hospital may initiate collection efforts. A responsible party may obtain an initial determination of charity care eligibility or apply for retroactive health coverage with the hospital's assistance under subsection (2) of this section at any time after previously declining to do so, and a hospital must promptly cease any collection efforts directed at such a responsible party and proceed to complete the initial determination process in accordance with this section.

(8) The hospital may pursue reimbursement from any third-party coverage that the responsible party reports to the hospital.

(9) If the responsible party reports enrollment in a means-tested state or federal public assistance program as described in subsection (3)(a) of this section, then the hospital must grant the responsible party charity care for the full amount of the patient responsibility portion of their hospital charges and provide prompt notice thereof. The hospital may not require the responsible party to provide additional documentation or information or to complete the final determination process, except that the hospital may require the responsible

party to provide documentation of current enrollment by a reasonable deadline that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 14 days after the responsible party receives the hospital's request. If the responsible party does not provide the requested documentation, the hospital must proceed to make an initial determination based on the other information provided under subsection (3) of this section.

(10) If the responsible party reports an estimated annual family income within an applicable income range specified in RCW 70.170.060(5), then the responsible party is initially determined eligible for charity care and the hospital must promptly:

(a) Update the responsible party's account to reflect the applicable percentage discount under RCW 70.170.060(5) or the hospital's policy, whichever is higher;

(b) Communicate the following to the responsible party:

(i) Notice that the responsible party has been initially determined eligible for charity care, including the applicable percentage discount;

(ii) A copy of the hospital's charity care application and instructions for completing and submitting the application;

(iii) Any request for documentation, as permitted under WAC 246-453-030;

(iv) The URL for the website where charity care information and materials can be accessed, as required under WAC 246-453-015(3); and

(v) A reasonable deadline for the responsible party to submit a charity care application that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 14 days after the responsible party receives notice.

(11) If neither subsection (9) nor (10) of this section applies to the responsible party, then the responsible party is initially determined ineligible for charity care.

(a) The responsible party may obtain a final determination of charity care eligibility.

(b) The hospital must promptly communicate the following to the responsible party:

(i) Notice that the responsible party has been initially determined ineligible for charity care with an explanation of the basis for the determination;

(ii) A copy of the hospital's charity care application and instructions for completing and submitting the application;

(iii) Any request for documentation, as permitted under WAC 246-453-030;

(iv) The URL for the website where charity care information and materials can be accessed, as required under WAC 246-453-015(3); and

(v) A reasonable deadline for the responsible party to submit a charity care application that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 14 days after the responsible party receives notice.

(c) The hospital may initiate collection efforts directed at the responsible party after the required notice has been received by the responsible party. If the responsible party applies for a final deter-

mination of eligibility for charity care, the hospital may initiate or continue collection efforts directed at the responsible party while the final determination process is being completed, except that the hospital may not refer the responsible party's account to an external collection agency until collection efforts are permitted to be initiated under WAC 246-453-021 (3)(g), subject to WAC 246-453-021 (3)(h).

NEW SECTION

WAC 246-453-021 Procedures for final determination of charity care eligibility. Each hospital must implement the following procedures for making a final determination of charity care eligibility:

(1) A hospital may require a responsible party who has been initially determined eligible for charity care under WAC 246-453-020(10) to complete the final determination process. A hospital, in its discretion, may deem an initial determination that a responsible party is eligible for charity care to be a final determination, though the hospital must permit a responsible party to complete the final determination process if the responsible party so chooses.

(2) A hospital must permit a responsible party who is initially determined ineligible for charity care under WAC 246-453-020(11) to complete the final determination process if the responsible party so chooses.

(3) A hospital's final determination process must comply with the following requirements, except that a hospital may modify its process to be less burdensome for a responsible party:

(a) A hospital may require a responsible party to submit a charity care application, including any requested documentation, as permitted under WAC 246-453-030, by a reasonable deadline that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 14 days after the responsible party receives the notice required under WAC 246-453-020 (10) or (11), as applicable.

(b) A charity care application may ask a responsible party to provide only the following information:

(i) The composition of the responsible party's family;

(ii) The responsible party's annual family income, which the hospital may require to be broken down into the categories indicated in the definition of income at WAC 246-453-010(7);

(iii) The full name, contact information, and other relevant identifying information of the responsible party, and, if different, the patient; and

(iv) Other information the hospital needs to make a charity care eligibility determination or comply with the requirements of this chapter or chapter 70.170 RCW.

(c) The hospital must assist the responsible party with completing the charity care application as needed.

(d) The hospital may require the responsible party to attest to the accuracy of the information provided.

(e) In making a final determination of charity care eligibility, the hospital must rely on the information the responsible party provides on the charity care application and in any submitted documentation. The hospital must determine within which, if any, of the appli-

cable income ranges specified in RCW 70.170.060(5) the responsible party's annual income, adjusted for family size, falls. The hospital must determine the patient responsibility portion of the hospital charges by applying to the hospital charges the applicable percentage discount under RCW 70.170.060(5) or the hospital's policy, whichever is higher, making, in the hospital's discretion, any permitted reduction to the amount of the discount for amounts reasonably related to assets. If the hospital is permitted to and chooses to consider the responsible party's assets to reduce the discount under RCW 70.170.060(5), the hospital may require the responsible party to submit asset information, as permitted under WAC 246-453-030, by a reasonable deadline that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 14 days after the responsible party receives the hospital's request.

(f) The hospital must provide a responsible party notice of the final determination within 14 days of submission of the charity care application and supporting documentation. The notice must include:

(i) A statement indicating whether the responsible party has been granted or denied charity care;

(ii) The responsible party's income, as determined by the hospital, presented as a total and broken down into the categories indicated in the definition of income at WAC 246-453-010(7);

(iii) The composition of the responsible party's family, as determined by the hospital;

(iv) The amount of the hospital charges;

(v) The amount of the patient responsibility portion of the hospital charges;

(vi) If applicable, the percentage discount applied, the amount of the discount, and the amount of any reduction made to the discount for amounts reasonably related to assets;

(vii) The dates of past services and prospective services, if any, that the discounts will be applied to; and

(viii) Information about the opportunity to appeal under WAC 246-453-025.

(g) Provided that the hospital has complied with all applicable requirements, the hospital may initiate collection efforts directed at a responsible party who:

(i) Expressly declines to complete the final determination process, fails to meet an applicable deadline, or fails to make reasonable efforts to cooperate with the hospital's efforts to complete the final determination process;

(ii) Is finally determined ineligible for charity care after the required notice has been received by the responsible party; or

(iii) Is finally determined to be eligible for charity care but responsible for a portion of the hospital charges, though such collection efforts may be directed only at the patient responsibility portion of the hospital charges and may commence only after the required notice has been received by the responsible party.

(h) A hospital may not refer the account of any responsible party who is entitled to appeal under WAC 246-453-025 to an external collection agency until the appeal period expires and any submitted appeal is decided.

(i) A hospital must promptly cease any collection efforts directed at a responsible party who is finally determined eligible for

charity care for the full amount of the patient responsibility portion of their hospital charges.

(j) A hospital must reimburse within 30 days a responsible party who is finally determined eligible for charity care for any funds collected in excess of the patient responsibility portion of their hospital charges.

NEW SECTION

WAC 246-453-025 Appeal procedures. (1) Each hospital must provide every responsible party who receives a final determination of charity care eligibility that includes any amount of patient responsibility an opportunity to appeal pursuant to this section. The appeal process must enable the responsible party to correct any deficiencies in documentation and provide for review of the final determination by the hospital's chief financial officer or equivalent or a delegate thereof.

(2) Responsible parties must be given at least 30 days after receiving a notice of final determination to submit an appeal. For good cause, upon request of a responsible party, a hospital must provide a reasonable extension of the appeal deadline. A hospital's appeal procedure must permit a responsible party to make submissions to the hospital by all reasonable means, including by using only a smartphone. A responsible party is deemed to have submitted an appeal by mail or other shipping services on the date sent.

(3) As provided under WAC 246-453-021 (3)(f), a hospital must provide information about the opportunity to appeal under this section. Such notice must include the following or a substantially similar statement: "If you disagree with the final determination of charity care eligibility, you may appeal by submitting additional documentation to correct deficiencies within your application or request review of the denial. Please submit your request and any additional documentation to our financial assistance office [insert relevant information]."

(4) A hospital must provide a responsible party notice of its appeal decision within 14 days of submission of the appeal. The notice must include a detailed explanation of the basis for the decision and the information listed in WAC 246-453-021 (3)(f)(i) through (viii). An appeal may not result in an increase in the patient responsibility portion of the hospital charges.

(5) A hospital must provide the department a copy of any appeal decision that does not grant the responsible party charity care for the full amount of the patient responsibility portion of their hospital charges and the documentation upon which the decision was based within 14 days of submission of the appeal.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

WAC 246-453-030 Data requirements for the identification of indigent persons. (~~((1) For the purpose of reaching an initial determi-~~

nation of sponsorship status, hospitals shall rely upon information provided orally by the responsible party. The hospital may require the responsible party to sign a statement attesting to the accuracy of the information provided to the hospital for purposes of the initial determination of sponsorship status.

(2) Any one of the following documents shall be considered sufficient evidence upon which to base the final determination of charity care sponsorship status, when the income information is annualized as may be appropriate:

(a) A "W-2" withholding statement;

(b) Pay stubs;

(c) An income tax return from the most recently filed calendar year;

(d) Forms approving or denying eligibility for medicaid and/or state-funded medical assistance;

(e) Forms approving or denying unemployment compensation; or

(f) Written statements from employers or welfare agencies.

(3) In the event that the responsible party's identification as an indigent person is obvious to hospital personnel, and the hospital personnel are able to establish the position of the income level within the broad criteria described in WAC 246-453-040 or within income ranges included in the hospital's sliding fee schedule, the hospital is not obligated to establish the exact income level or to request the aforementioned documentation from the responsible party, unless the responsible party requests further review.

(4) In the event that the responsible party is not able to provide any of the documentation described above, the hospital shall rely upon written and signed statements from the responsible party for making a final determination of eligibility for classification as an indigent person.

(5) Information requests, from the hospital to the responsible party, for the verification of income and family size 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 applications for such sponsorship. Only those facts relevant to eligibility may be verified, and duplicate forms of verification shall not be demanded.)) (1) When making initial and final determinations of charity care eligibility under this chapter, a hospital must make every reasonable effort to determine the responsible party's annual family income at:

(a) The time when the health care services were provided; or

(b) The time of application for charity care if:

(i) The application for charity care is made within two years of the time when the health care services were provided; and

(ii) The responsible party has been making good faith efforts towards payment of health care services provided, which include the responsible party making reasonable efforts to reach an agreement with the hospital regarding payment and to make payments in accordance with such agreement.

(c) The responsible party may apply multiple times using their annual family income at the time of application if (b) of this subsection applies.

(2) A hospital may consider only the categories of income included in the definition of income in WAC 246-453-010(7) and request documentation of income only as permitted in this chapter and chapter 70.170 RCW. A hospital may consider and request documentation of assets only as permitted in this chapter and chapter 70.170 RCW.

(3) A hospital may request only such documentation as is reasonably necessary to establish with reasonable accuracy the responsible party's income and assets at the applicable time under subsection (1) of this section. A hospital must not make requests that place an unreasonable burden on the responsible party or discourage requests for charity care or request documentation that is not readily available, unlikely to show the responsible party's income or assets at the applicable time under subsection (1) of this section, irrelevant or duplicative. A hospital must not request the responsible party's social security number.

(4) A hospital must accept a representation from a responsible party that they do not have income in a category listed in WAC 246-453-010(7) or assets in a category about which the hospital has requested information. A hospital must accept any reasonably reliable form of documentation provided by a responsible party even if different from the form of documentation requested by the hospital. A hospital must accept a representation from a responsible party that they do not have certain requested documentation and rely on the responsible party's representation as to the amount of such income or value of such asset.

(5) If a responsible party chooses to submit documentation that the hospital did not request, the hospital must give due regard to such documentation in determining the responsible party's income and assets. The hospital must provide the responsible party the opportunity to submit explanatory information about the responsible party's income and assets including, but not limited to, information about any recent changes that would make any requested documentation an inaccurate source of information, and the hospital must give due regard to such information in determining the responsible party's income.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

WAC 246-453-060 Denial of access to emergency care based upon ability to pay and transfer of patients with emergency medical conditions or active labor. (1) No hospital or its medical staff shall adopt or maintain admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is, or is likely to be, less than the anticipated charges for or costs of such services; or

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

(2) No hospital shall adopt or maintain practices or policies which would deny access to emergency care based on ability to pay. No hospital which maintains an emergency department shall transfer a patient with an emergency medical condition or who is in active labor unless the transfer is performed at the request of the patient or is due to the limited medical resources of the transferring hospital.

Hospitals must make transfers to other hospitals in such circumstances and as promptly as dictated by the standard of care and follow reasonable procedures in making transfers to other hospitals including confirmation of acceptance of the transfer by the receiving hospital.

(3) The department shall monitor hospital compliance with subsections (1) and (2) of this section. The department shall report to the legislature and the governor on hospital compliance with these requirements and shall report individual instances of possible noncompliance to the state attorney general or the appropriate federal agency. For purposes of monitoring compliance with subsection (2) of this section, the department is to follow all definitions and requirements of federal law.

(4) Except as required by federal law and subsection (2) of this section, nothing in this section shall be interpreted to indicate that hospitals and their medical staff are required to provide ~~((appropriate hospital-based medical services))~~ medically necessary hospital health care, including experimental services, to any individual.

(5) The following definitions apply for the purpose of this section:

(a) "Active labor" means a stage of labor during which a person is having contractions and:

(i) There is inadequate time to effect a safe transfer to another hospital before delivery; or

(ii) Transfer may pose a threat to the health or safety of the pregnant person or their embryo or fetus.

(b) "Emergency medical condition" means:

(i) A condition of such severity that the absence of immediate medical attention could result in:

(A) Placing the health of an individual or, with respect to a pregnant person, the health of the pregnant person or their embryo or fetus in serious jeopardy;

(B) Serious impairment to bodily functions; or

(C) Serious dysfunction of a bodily organ or part;

(ii) With respect to a pregnant person who is having contractions:

(A) That there is inadequate time to effect a safe transfer to another hospital before delivery; or

(B) That transfer may pose a threat to the health or safety of the pregnant person or their embryo or fetus; or

(iii) Any of the following conditions: Ectopic pregnancy; emergent complications resulting from pregnancy or of pregnancy loss; pre-viable preterm premature rupture of membranes; emergent placental abnormalities; or emergent hypertensive disorders, such as preeclampsia.

(c) "Medical staff" means health care providers delivering or overseeing the delivery of health care services in a hospital.

(d) "Unusually costly or prolonged treatment" means those services or combinations of services the cost of which is two standard deviations or more above the average charge or the duration of which is three standard deviations or more above the average length of stay, as determined by the department's discharge database.

WAC 246-453-070 Standards for acceptability of hospital policies for charity care and bad debts. (1) Each hospital ~~((shall))~~ must develop~~((,))~~ and submit to the department~~((,))~~ for approval prior to implementation charity care policies~~((,))~~ and procedures~~((, and sliding fee schedules))~~ consistent with the requirements ~~((included in WAC 246-453-020, 246-453-030, 246-453-040, and 246-453-050))~~ of chapter 70.170 RCW and this chapter. Any subsequent modifications to ~~((those))~~ policies~~((,))~~ or procedures~~((, and sliding fee schedules))~~ must be submitted to the department ~~((no later than thirty days prior to their adoption by the hospital))~~ for approval prior to implementation.

(2) Each hospital ~~((shall))~~ must develop~~((,))~~ and submit to the department~~((,))~~ for approval prior to implementation bad debt policies and procedures, including reasonable and uniform standards for collection of the unpaid portions of hospital charges that are the patient's responsibility. These standards are to be part of each hospital's system of accounts receivable management manuals, which support hospital collection policies. Manuals ~~((should))~~ must cover procedures for pre-admission, admission, discharge, outpatient registration and discharge, billing, and credit and collections. All subsequent modifications to these bad debt policies must be submitted to the department ~~((no later than thirty days prior to their adoption by the hospital))~~ for approval prior to implementation.

(3) Each hospital that considers the existence, availability, and value of assets in order to lower the charity care discount, as permitted under this chapter and chapter 70.170 RCW, must develop and submit to the department for approval prior to implementation, asset consideration policies and procedures consistent with the requirements of chapter 70.170 RCW and this chapter. Any subsequent modifications to those policies and procedures must be submitted to the department for approval prior to implementation.

(4) The department ~~((shall))~~ will review the ~~((charity care and bad debt))~~ policies and procedures submitted ~~((in accordance with the provisions of))~~ for approval under this section. If any of the policies and procedures ~~((do))~~ does not meet the requirements of ~~((this section or WAC 246-453-020, 246-453-030, 246-453-040, or 246-453-050))~~ chapter 70.170 RCW or this chapter, the department ~~((shall))~~ will reject the policies and procedures and ~~((shall so))~~ notify the hospital. Such notification ~~((shall))~~ will be in writing, addressed to the hospital's chief executive officer or equivalent, and ~~((shall))~~ will specify the reason(s) that the policies and procedures have been rejected. ~~((Any such notification must be mailed within fourteen calendar days of the receipt of the hospital's policies and procedures. Within fourteen days of the date of the rejection notification,))~~ The hospital shall revise and resubmit the policies and procedures for review by the department. The hospital may not implement a policy or procedure until the department notifies the hospital that the policy and procedure is approved.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

WAC 246-453-080 Reporting requirements. Each hospital shall:

(1) Compile and report data to the department with regard to the amount of charity care provided, in accordance with instructions issued by the department;

(2) Retain records related to charity care eligibility determinations for a period of no less than 10 years following completion of the charity care eligibility determination process pursuant to this chapter; and

(3) Provide records or information related to charity care to the department as directed.

AMENDATORY SECTION (Amending WSR 94-12-089, filed 6/1/94, effective 7/2/94)

WAC 246-453-090 Penalties for violation. ((~~(1) Failure to file the policies, procedures, and sliding fee schedules as required by WAC 246-453-070 or the reports required by WAC 246-453-080 shall constitute a violation of RCW 70.170.060, and the department will levy a civil penalty of one thousand dollars per day for each day following official notice of the violation. The department may grant extensions of time to file the reports, in which cases failure to file the reports shall not constitute a violation until the extension period has expired.~~

~~(2) Failure to comply with other provisions of chapter 70.170 RCW, and chapter 246-453 WAC, shall result in civil penalties as provided within RCW 70.170.070(2), with the exception that the terms "not exceeding" and "not to exceed" will be read to mean "of.")~~ The department may take action pursuant to RCW 70.170.070 in response to a violation of this chapter or chapter 70.170 RCW. Chapter 246-10 WAC shall govern any proceedings initiated hereunder.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-453-040	Uniform criteria for the identification of indigent persons.
WAC 246-453-050	Guidelines for the development of sliding fee schedules.