

# Rulemaking: Chapter 246-453 WAC

Substitute Senate Bill (SSB) 6273  
(chapter 623, Laws of 2018)

and

Substitute House Bill (SHB) 1616  
(chapter 197, Laws of 2022)



Health Systems Quality Assurance  
**Charity Care**



# Agenda

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- Welcome and introductions
- Rulemaking
  - Process
  - 6273/1616 changes to RCW
  - Potential conflicts between existing WAC and new language in RCW
  - New RCW where rules may be needed
- Recommendation and comment process
- Dates and access for future meetings
- Questions

# Rulemaking Process

Administrative Procedures Act (chapter 34.05 RCW) - Rulemaking consists by law of three parts:

Step	Process	Activity
CR-101	Preproposal inquiry	Public outreach work occurs (workshops, drafts, informal input).
CR-102	Proposal	The product that goes forward for public hearing and final testimony from the public.
CR-103	Adoption	Final rule is adopted, filed with the Code Reviser's Office, and becomes effective 31 days later unless another effective date is specified in rule.

# Rulemaking Process – Roles and Responsibilities

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Interested parties offer recommendations to DOH staff for possible rule revisions, repeals, or new language to existing rules.

DOH program staff take all public comments and recommendations into consideration, develop drafts and proposed rules in accordance with the Administrative Procedure Act.

Secretary of Health must review and approve proposed and final rules for adoption. (RCW 18.130.065)

# Rulemaking Timeline

Tentative Date	Process Step	Activity
Sep. 2022	CR-101	Announces possible rule making to address a certain issue.
Dec. 2022 – Jun. 2023	Interested party work	Public outreach and interested party work occurs (workshops, drafts, informal input).
Jun. 2023	CR-102	The formal proposed rule is developed.
Jul. 2023	Public comment period and hearing	Rules public hearing held and all written comments received.
Aug. 2023	CR-103	Final rule adoption and rules package developed.
Sep. 2023	CR-103 filed	CR-103 is approved by the Secretary for filing with the Code Reviser.
Oct. 2023	Rules effective	Anticipated rule effective date. A rule becomes effective 31 days after it is filed with the Code Reviser.

# What Rules Are Being Discussed?

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- Chapter 246-453 WAC, Hospital Charity Care is open under a CR-101 for consideration of possible revisions.
- The Department of Health is considering updating these rule sections to bring it into compliance with changes to RCW 70.170.020 and 70.170.060. New sections may be added as required.

# New Language in Statute

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- 70.170.020 Definitions
- (4)“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.



# New Language in Statute

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- 70.170.020
- (5) "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.

# New Language in Statute

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- 70.170.020
- (6) "Third-party coverage" means an obligation on the part of an insurance company, health care service contractor, health maintenance organization, group health plan, government program, tribal health benefits, or health care sharing ministry as defined in U.S.C. Sec. 5000A 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 health care service. The pendency of such settlements, judgments, or awards must not stay hospital obligations to consider an eligible patient for charity care.

## Eliminated Language from Statute

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- 70.170.020
- ~~(6) "Sliding fee schedule" means a hospital-determined, publicly available schedule of discounts to charges for persons deemed eligible for charity care; such schedules shall be established after consideration of guidelines developed by the department.~~

# New Language in Statute

- 70.170.060 Charity care—Prohibited and required hospital practices and policies—Rules—Notice of charity care availability—Department to monitor and report.
- (5) For the purpose of providing charity care, each hospital shall develop, implement, and maintain a ~~((charity care))~~ policy which ~~((, consistent with subsection (1) of this section,))~~ shall enable ~~((people below the federal poverty level))~~ indigent persons access to ~~((appropriate hospital-based medical services, and a sliding fee schedule for determination of discounts from charges for persons who qualify for such discounts by January 1, 1990. The department shall develop specific guidelines to assist hospitals in setting sliding fee schedules required by this section. All persons with family income below one hundred percent of the federal poverty standard shall be deemed charity care patients for the full amount of hospital charges, except to the extent the patient has third-party coverage for those charges.))~~ charity care.

# New Language in Statute

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- 70.170.060
- CONTINUED (5) 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.

# New Language in Statute

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- 70.170.060
- CONTINUED (5) 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.

# New Language in Statute

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- 70.170.060
- CONTINUED (5)(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:

# New Language in Statute

- 70.170.060
- CONTINUED (5)(a)
- (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.



# New Language in Statute

- 70.170.060
- CONTINUED (5)(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.

# New Language in Statute

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- 70.170.060
- CONTINUED (5)(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:

# New Language in Statute

- 70.170.060
- CONTINUED (5)(c)(ii)
- (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.

# New Language in Statute

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- 70.170.060
- CONTINUED (5)(c)(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.

# New Language in Statute

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- 70.170.060
- CONTINUED (5)(c)(iii)
- (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.

# SHB 1616 Language

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- NEW SECTION. Sec. 4. This act applies prospectively only to care provided on or after July 1, 2022. This act does not affect the ability of a patient who received care prior to July 1, 2022, to receive charity care under RCW 70.170.020 and 70.170.060 as the sections existed before that date.

# New Language in Statute

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- 70.170.060
- (6) Each hospital shall post and prominently display notice of charity care availability. Notice must be posted in all languages spoken by more than ten percent of the population of the hospital service area. Notice must be displayed in at least the following locations:
  - (a) Areas where patients are admitted or registered;
  - (b) Emergency departments, if any; and
  - (c) Financial service or billing areas where accessible to patients.

# New Language in Statute

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- 70.170.060
- (7) Current versions of the hospital's charity care policy, a plain language summary of the hospital's charity care policy, and the hospital's charity care application form must be available on the hospital's web site. The summary and application form must be available in all languages spoken by more than ten percent of the population of the hospital service area.



# New Language in Statute

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- 70.170.060
- (8)(a) All hospital billing statements and other written communications concerning billing or collection of a hospital bill by a hospital must include the following or a substantially similar statement prominently displayed on the first page of the statement in 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 [web site] and [phone number].
- (b) Nothing in (a) of this subsection requires any hospital to alter any preprinted hospital billing statements existing as of October 1, 2018.

# New Language in Statute

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- 70.170.060
- (9) Hospital obligations under federal and state laws to provide meaningful access for limited English proficiency and non-English-speaking patients apply to information regarding billing and charity care. Hospitals shall 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.

# New Language in Statute

- 70.170.060
- (10) Each hospital shall make every reasonable effort to determine:
- (a) The existence or nonexistence of private or public sponsorship which might cover in full or part the charges for care rendered by the hospital to a patient;
- (b) The annual family income of the patient as classified under federal poverty income guidelines as of the time the health care services were provided, or at the time of application for charity care if the application is made within two years of the time of service, the patient has been making good faith efforts towards payment of health care services rendered, and the patient demonstrates eligibility for charity care; and
- c) The eligibility of the patient for charity care as defined in this chapter and in accordance with hospital policy. An initial determination of sponsorship status shall precede collection efforts directed at the patient.

# New Language in Statute

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- 70.170.060
- ~~((7))~~ (11) At the hospital's discretion, a hospital may consider applications for charity care at any time, including any time there is a change in a patient's financial circumstances.

# Conflicts Between New RCW and Rules

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## NEW RCW

- 70.170.020 (4) "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.

## RULE(s)

- WAC 246-453-010 (5) "Charity care" means appropriate hospital-based medical services provided to indigent persons, as defined in this section;

# Conflicts Between New RCW and Rules

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## NEW RCW

- 70.170.020 (4) “Medically necessary hospital health care” in new charity care definition vs. “Appropriate hospital-based medical services” in several rules:

## RULE(s)

- WAC 246-453-010(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;

# Conflicts Between New RCW and Rules

## RULE(s)

- 246-453-020 Uniform procedures for the identification of indigent persons.
- For the purpose of identifying indigent persons, all hospitals shall use the following criteria:
- (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.

# Conflicts Between New RCW and Rules

## RULE(s)

- 246-453-040 Uniform criteria for the identification of indigent persons.
- For the purpose of identifying indigent persons, all hospitals shall use the following criteria:
- (1) All responsible parties with family income equal to or below one hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for charity sponsorship for the full amount of hospital charges related to appropriate hospital-based medical services that are not covered by private or public third-party sponsorship;
- (2) All responsible parties with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for discounts from charges related to appropriate hospital-based medical services in accordance with the hospital's sliding fee schedule and policies regarding individual financial circumstances;



# Conflicts Between New RCW and Rules

## RULE(s)

- 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.
- (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, including experimental services, to any individual.

# Conflicts Between New RCW and Rules

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## NEW RCW

- 70.170.020 (5) "Indigent persons" are those patients or their guarantors who qualify for charity care pursuant to section 2(5) of this act based on the federal poverty level, adjusted for family size, and who have exhausted any third-party coverage.

## RULE(s)

- WAC 246-453-010 (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

# Conflicts Between New RCW and Rules

## RULE(s)

- 246-453-040 Uniform criteria for the identification of indigent persons.
- For the purpose of identifying indigent persons, all hospitals shall use the following criteria:
- (1) All responsible parties with family income equal to or below one hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for charity sponsorship for the full amount of hospital charges related to appropriate hospital-based medical services that are not covered by private or public third-party sponsorship;

# Conflicts Between New RCW and Rules

## RULE(s)

- **CONTINUED** 246-453-040 Uniform criteria for the identification of indigent persons.
- For the purpose of identifying indigent persons, all hospitals shall use the following criteria:
- (2) All responsible parties with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for discounts from charges related to appropriate hospital-based medical services in accordance with the hospital's sliding fee schedule and policies regarding individual financial circumstances;
- (3) Hospitals may classify any individual responsible party whose income exceeds two hundred percent of the federal poverty standard, adjusted for family size, as an indigent person eligible for a discount from charges based upon that responsible party's individual financial circumstances.

# Conflicts Between New RCW and Rules

## NEW RCW

- 70.170.020 (6) "Third-party coverage" means an obligation on the part of an insurance company, health care service contractor, health maintenance organization, group health plan, government program, tribal health benefits, or health care sharing ministry as defined in U.S.C. Sec. 5000A 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 health care service. The pendency of such settlements, judgments, or awards must not stay hospital obligations to consider an eligible patient for charity care.

## RULE(s)

- WAC 246-453-010 (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;

# Conflicts Between New RCW and Rules

## NEW RCW

- 70.170.020 (6) "~~Sliding fee schedule~~" means a hospital-determined, publicly available schedule of discounts to charges for persons deemed eligible for charity care; such schedules shall be established after consideration of guidelines developed by the department.

## RULE(s)

- “Sliding fee schedule” in several rules:
- WAC 246-453-030 Data Requirements for the Identification of Indigent Persons
- (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.

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# Conflicts Between New RCW and Rules

## RULE(s)

- WAC 246-453-040 Uniform criteria for the identification of indigent persons.
- (2) All responsible parties with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for discounts from charges related to appropriate hospital-based medical services in accordance with the hospital's sliding fee schedule and policies regarding individual financial circumstances;

# Conflicts Between New RCW and Rules

## RULE(s)

- Entirety of WAC 246-453-050 Guidelines for the development of sliding fee schedules.
- (1) In developing these sliding fee schedules, hospitals shall consider the following guidelines:
  - (a) The sliding fee schedule shall consider the level of charges that are not covered by any public or private sponsorship in relation to or as a percentage of the responsible party's family income;
  - (b) The sliding fee schedule shall determine the maximum amount of charges for which the responsible party will be expected to provide payment, with flexibility for hospital management to hold the responsible party accountable for a lesser amount after taking into account the specific financial situation of the responsible party;
- ...



# Conflicts Between New RCW and Rules

## RULE(s)

- 246-453-070 Standards for acceptability of hospital policies for charity care and bad debts.
- (1) Each hospital shall develop, and submit to the department, charity care policies, 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. Any subsequent modifications to those policies, procedures, and sliding fee schedules must be submitted to the department no later than thirty days prior to their adoption by the hospital.

# Conflicts Between New RCW and Rules

## RULE(s)

- 246-453-070 Standards for acceptability of hospital policies for charity care and bad debts.
- (3) The department shall review the charity care and bad debt policies and procedures submitted in accordance with the provisions of this section. If any of the policies and procedures do not meet the requirements of this section or WAC 246-453-020, 246-453-030, 246-453-040, or 246-453-050, the department shall reject the policies and procedures and shall so notify the hospital. Such notification shall be in writing, addressed to the hospital's chief executive officer or equivalent, and shall 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.

# Conflicts Between New RCW and Rules

## RULE(s)

- 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.

# Conflicts Between New RCW and Rules

## NEW RCW:

- 70.170.060 (5)(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.

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# Conflicts Between New RCW and Rules

## NEW RCW

- 70.170.060 (5)(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.

# Conflicts Between New RCW and Rules

## RULE(s)

246-453-020 Uniform procedures for the identification of indigent persons.

(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.

# Conflicts Between New RCW and Rules

## RULE(s)

246-453-040 Uniform criteria for the identification of indigent persons.

For the purpose of identifying indigent persons, all hospitals shall use the following criteria:

(1) All responsible parties with family income equal to or below one hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for charity sponsorship for the full amount of hospital charges related to appropriate hospital-based medical services that are not covered by private or public third-party sponsorship;

(2) All responsible parties with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for discounts from charges related to appropriate hospital-based medical services in accordance with the hospital's sliding fee schedule and policies regarding individual financial circumstances;

(3) Hospitals may classify any individual responsible party whose income exceeds two hundred percent of the federal poverty standard, adjusted for family size, as an indigent person eligible for a discount from charges based upon that responsible party's individual financial circumstances.

# Conflicts Between New RCW and Rules

## NEW RCW

70.170.060 (5)(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.



# Conflicts Between New RCW and Rules

## NEW RCW

(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.

# Conflicts Between New RCW and Rules

## NEW RCW

- 70.070.060 (5)(c)(i)-(v)

## RULE(s)

246-453-050 Guidelines for the development of sliding fee schedules.

(1)(d) Hospital policies and procedures regarding the sliding fee schedule shall specify the individual financial circumstances which may be considered by appropriate hospital personnel for purposes of adjusting the amount resulting from the application of the sliding fee schedule, such as:

(i) Extraordinary nondiscretionary expenses relative to the amount of the responsible party's medical care expenses;

(ii) The existence and availability of family **assets**, which may only be considered with regard to the applicability of the sliding fee schedule;

# Conflicts Between New RCW and Rules

## NEW RCW

- 70.070.060 (6) Each hospital shall post and prominently display notice of charity care availability. Notice must be posted in all languages spoken by more than ten percent of the population of the hospital service area. Notice must be displayed in at least the following locations:
  - (a) Areas where patients are admitted or registered;
  - (b) Emergency departments, if any; and
  - (c) Financial service or billing areas where accessible to patients.

## RULE(s)

246-453-010 Definitions.

(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;

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# Conflicts Between New RCW and Rules

## RULE(s)

246-453-020 Uniform procedures for the identification of indigent persons.

(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.

# New RCW, Are Rules Needed?

## NEW RCW:

- 70.170.060 (5) 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.

# New RCW, Are Rules Needed?

CONTINUED 70.170.060 (5) 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.

# New RCW, Are Rules Needed?

## NEW RCW

- 70.070.060 (7) Current versions of the hospital's charity care policy, a plain language summary of the hospital's charity care policy, and the hospital's charity care application form must be available on the hospital's web site. The summary and application form must be available in all languages spoken by more than ten percent of the population of the hospital service area.

# New RCW, Are Rules Needed?

## NEW RCW

- 70.070.060 (8)(a) All hospital billing statements and other written communications concerning billing or collection of a hospital bill by a hospital must include the following or a substantially similar statement prominently displayed on the first page of the statement in 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 [web site] and [phone number].
- (b) Nothing in (a) of this subsection requires any hospital to alter any preprinted hospital billing statements existing as of October 1, 2018.



# New RCW, Are Rules Needed?

## NEW RCW

- 70.170.060 (9) Hospital obligations under federal and state laws to provide meaningful access for limited English proficiency and non-English-speaking patients apply to information regarding billing and charity care. Hospitals shall 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.

# New RCW, Are Rules Needed?

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RCW 70.170.060 (10) Each hospital shall make every reasonable effort to determine:

(b) The annual family income of the patient as classified under federal poverty income guidelines; as of the time the health care services were provided, or at the time of application for charity care if the application is made within two years of the time of service, the patient has been making good faith efforts towards payment of health care services rendered, and the patient demonstrates eligibility for charity care; and,

# New RCW, Are Rules Needed?

## NEW RCW

- 70.170.060
- ~~((7))~~ (11) At the hospital's discretion, a hospital may consider applications for charity care at any time, including any time there is a change in a patient's financial circumstances.

# Recommendation and Comment Process

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## Download Comment Form:

<https://doh.wa.gov/data-statistical-reports/healthcare-washington/hospital-and-patient-data/hospital-patient-information-and-charity-care/charity-care-rules-progress>

## Submission Deadline: February 7, 2023

- One week prior to the next interested party meeting

Submit to: [CharityCare@doh.wa.gov](mailto:CharityCare@doh.wa.gov)

# Meeting Schedule

## Meeting 1, Wednesday, December 14, 2022, 1:00 PM-2:00 PM

- **Comments due Tuesday, February 7, 2023**

## Meeting 2, Tuesday, February 14, 2023, 2:00 PM-3:00 PM

[https://teams.microsoft.com/registration/F-LQEU4mCkCLoFfcwSfXLQ,WAYTvmYR706OSO58e6N9GQ,A1QuZiyPHE-D7YYo4K8nIA,qRdwoD4fZE6cOhdw\\_y6kWw,NU8rL\\_e0BkWo7vD31YaPCQ,dYPqDBlwPE2f\\_Srf8zNs9Q?mode=read&tenantId=11d0e217-264e-400a-8ba0-57dcc127d72d&webinarRing=gcc](https://teams.microsoft.com/registration/F-LQEU4mCkCLoFfcwSfXLQ,WAYTvmYR706OSO58e6N9GQ,A1QuZiyPHE-D7YYo4K8nIA,qRdwoD4fZE6cOhdw_y6kWw,NU8rL_e0BkWo7vD31YaPCQ,dYPqDBlwPE2f_Srf8zNs9Q?mode=read&tenantId=11d0e217-264e-400a-8ba0-57dcc127d72d&webinarRing=gcc)

- **Comments due Wednesday, April 5, 2023**

## Meeting 3, Wednesday, April 12, 2023, 2:00 PM-3:00 PM

[https://teams.microsoft.com/registration/F-LQEU4mCkCLoFfcwSfXLQ,WAYTvmYR706OSO58e6N9GQ,A1QuZiyPHE-D7YYo4K8nIA,0\\_U5k6ZDq0-eNDCTOjCMmA,WmYVJ84e50yP0Aoav9kbRQ,hVCP6-H8uUCuaAzwwIDwGQ?mode=read&tenantId=11d0e217-264e-400a-8ba0-57dcc127d72d&webinarRing=gcc](https://teams.microsoft.com/registration/F-LQEU4mCkCLoFfcwSfXLQ,WAYTvmYR706OSO58e6N9GQ,A1QuZiyPHE-D7YYo4K8nIA,0_U5k6ZDq0-eNDCTOjCMmA,WmYVJ84e50yP0Aoav9kbRQ,hVCP6-H8uUCuaAzwwIDwGQ?mode=read&tenantId=11d0e217-264e-400a-8ba0-57dcc127d72d&webinarRing=gcc)

## Meeting 4, TBA

# How to Stay Informed

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- Visit DOH [Website](#)
- Subscribe to [GovDelivery](#)
- Email comments to [CharityCare@doh.wa.gov](mailto:CharityCare@doh.wa.gov)
- Attend interested party meetings
- Contact DOH Charity Care Staff

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Questions?



@WADeptHealth



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