

**BRIAN E. FROSH**  
Attorney General

**WILLIAM D. GRUHN**  
Chief  
Consumer Protection Division

**ELIZABETH F. HARRIS**  
Chief Deputy Attorney General

**CAROLYN QUATTROCKI**  
Deputy Attorney General

Writer's Direct Fax No.  
(410) 576-6571

Writer's Direct Email:  
poconnor@oag.state.md.us



**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**  
**CONSUMER PROTECTION DIVISION**

Writer's Direct Dial No.  
(410) 576-6515

February 28, 2022

To: The Honorable Shane E. Pendergrass  
Chair, Health and Government Operations Committee

From: The Office of the Attorney General's Consumer Protection Division and  
Health Education and Advocacy Unit

Re: House Bill 694 (Hospitals - Financial Assistance - Medical Bill Reimbursement):  
Support with Amendment

The Office of the Attorney General's Consumer Protection Division (the Division) and the Health Education and Advocacy Unit (HEAU) support House Bill 694 with a friendly amendment, and thank the Sponsor for working with hospitals, consumer advocates and state agencies to achieve a cost-effective and timely solution to the serious problem that was revealed on Page 1 of the February 2021 legislative report from the Health Services Cost Review Commission (HSCRC) entitled *Analysis of the Impact of Hospital Financial Assistance Policy Options on Uncompensated Care and Costs to Payers Mandated by House Bill 1420 (Ch. 470, 2020 Md. Laws) MSAR# 12823*:

HSCRC determined that approximately 60% of UCC (i.e. unpaid charges) attributable to individuals with a household income under 200% of the federal poverty level (FPL) is reported by hospitals as bad debt, rather than free care. **Hospitals are required by statute to provide free care to patients below this income level.** The analysis in this report suggests that hospitals attempted (and failed) to collect this debt from a sizable number of patients likely eligible for free care. In addition, **approximately 1% of total hospital charges to individuals who likely qualify for free care are paid by those individuals (this amounts to approximately \$60 million statewide).**

(Emphasis added).

The estimated amount of \$60 million in improperly collected payments from free-care eligible patients is based on data from the HSCRC's hospital case mix data set; data from Maryland tax filings from the Maryland Office of the Comptroller (Comptroller); and commercial insurance claims data from the Maryland Medical Care Database (MCDB) maintained by the Maryland Health Care Commission. The data does not, on its own, identify the free-care eligible patients who made payments they should never have been asked to make. The bill sets forth the processes the hospitals, the Comptroller and the Department of Human Services will undertake to identify and reimburse those patients. Attached is our proposed amendment to protect the confidentiality of patients' financial and health information, by requiring notification by letter, not a postcard.

The hospitals will pay for the costs associated with the reimbursement effort and HSCRC will not take the costs into consideration when setting rates for the hospitals. We believe it is very important to not allow hospitals to shift to the State those costs associated with ensuring that hospitals fulfill their tax-exempt status obligations under federal and State laws, particularly in light of persistent concerns regarding whether the public receives adequate benefits as originally intended by the laws. *See* <https://www.modernhealthcare.com/not-profit-hospitals/not-profit-hospitals-dont-earn-tax-exemptions-researchers-say>

We urge the Committee to adopt our proposed amendment and to give a favorable report on House Bill 694.

cc: Delegate Charkoudian, Sponsor

Rationale: The Consumer Protection Division and the HEAU of the Office of the Attorney General request the amendments below to protect sensitive information (your income is at or below 200% federal poverty level and you were hospitalized) from being printed on a post card for all to see.

**On page 3:**

16 2. THE OFFICE SHALL SEND THE ELIGIBLE PATIENT A

17 ~~POSTCARD~~ **LETTER** THAT:

18 A. INCLUDES THE OFFICIAL SEAL OF THE

19 COMPTROLLER;

20 ~~B. IS ON COLORED CARDSTOCK; AND~~

21 ~~C.~~ INCLUDES THE FOLLOWING STATEMENT:

22 "OUR RECORDS INDICATE THAT YOU PAID FOR CARE AT (HOSPITAL'S NAME)

23 IN (YEAR), WERE ELIGIBLE FOR FREE CARE, AND MAY BE ENTITLED TO A REFUND.

24 TO LEARN MORE, GO TO (COMMISSION'S WEBSITE). TO APPLY FOR A REFUND, GO TO

25 (HOSPITAL'S WEBSITE), OR CALL (HOSPITAL'S PHONE NUMBER)"; **AND**

**C. IS SEALED IN AN ENVELOPE TO PROTECT THE CONFIDENTIALITY OF PATIENT FINANCIAL AND HEALTH INFORMATION.**

26 3. THE STATEMENT REQUIRED TO BE INCLUDED ~~ON THE~~

27 ~~POSTCARD~~ **IN THE LETTER** UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH SHALL BE IN:

28 A. 12 POINT FONT; AND

**On page 4:**

1 B. EACH LANGUAGE SPOKEN BY THE POPULATION THAT

2 CONSTITUTES AT LEAST 5% OF THE OVERALL POPULATION WITHIN THE COUNTY IN

3 WHICH THE HOSPITAL IS LOCATED AS MEASURED BY THE MOST RECENT CENSUS.

4 (II) 1. IF A PATIENT WAS DETERMINED TO BE ELIGIBLE FOR

5 FREE CARE AND THE PATIENT WAS DETERMINED TO BE PRESUMPTIVELY ELIGIBLE

6 UNDER § 2-214.1(B)(7) OF THIS TITLE, THE PATIENT SHALL BE NOTIFIED BY THE

7 DEPARTMENT OF HUMAN SERVICES BY FIRST-CLASS MAIL IN THE FORM SPECIFIED

8 UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.

9 2. THE DEPARTMENT OF HUMAN SERVICES SHALL

10 SEND THE ELIGIBLE PATIENT A ~~POSTCARD~~ **LETTER** THAT:

11 A. INCLUDES THE OFFICIAL SEAL OF THE DEPARTMENT

12 OF HUMAN SERVICES;

13 ~~B. IS ON COLORED CARDSTOCK; AND~~

14 ~~B.~~ INCLUDES THE FOLLOWING STATEMENT:

15 "OUR RECORDS INDICATE THAT YOU PAID FOR CARE AT (HOSPITAL'S NAME)

16 IN (YEAR), WERE ELIGIBLE FOR FREE CARE, AND MAY BE ENTITLED TO A REFUND.

17 TO LEARN MORE GO TO (COMMISSION'S WEBSITE). TO APPLY FOR A REFUND, GO TO

18 (HOSPITAL'S WEBSITE), OR CALL (HOSPITAL'S PHONE NUMBER)"; **AND**

**C. IS SEALED IN AN ENVELOPE TO PROTECT THE CONFIDENTIALITY OF PATIENT FINANCIAL AND HEALTH INFORMATION.**

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23 CONSTITUTES AT LEAST 5% OF THE OVERALL POPULATION WITHIN THE COUNTY IN

24 WHICH THE HOSPITAL IS LOCATED AS MEASURED BY THE MOST RECENT CENSUS.