

HOUSE BILL REPORT

ESHB 1359

As Passed House:
March 2, 2017

Title: An act relating to notice of charity care availability at time of billing and collection.

Brief Description: Concerning notice of charity care availability at time of billing and collection.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Harris, Macri, Kilduff, Riccelli, Cody, Slatter, Appleton, Kloba, Frame and Doglio).

Brief History:

Committee Activity:

Health Care & Wellness: 2/3/17, 2/8/17 [DPS];
Appropriations: 2/20/17, 2/21/17 [DPS(HCW)], 2/22/17.

Floor Activity:

Passed House: 3/2/17, 98-0.

Brief Summary of Engrossed Substitute Bill

- Requires hospital billing statements to include a statement notifying patients that they may qualify for a discount and providing contact information.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

Staff: Alexa Silver (786-7190) and Alex Pearson (786-7291).

HOUSE COMMITTEE ON APPROPRIATIONS

Staff: Lily Sobolik (786-7157).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

General Charity Care Requirements.

By statute, Washington hospitals may not deny patients access to emergency care because of inability to pay. Hospitals are also required to develop, implement, and maintain a charity care policy and a sliding fee schedule and submit them, along with data regarding the annual use of charity care, to the Department of Health (Department).

"Charity care" is defined as necessary hospital health care rendered to indigent persons to the extent they are unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payer. A patient whose family income is 100 percent of the federal poverty level or lower is eligible for charity care in the full amount of hospital charges for appropriate hospital-based medical services that are not otherwise covered. A patient whose family income is 101 to 200 percent of the federal poverty level qualifies for discounts based on the hospital's sliding fee schedule. Hospitals may classify a person whose family income is over 200 percent of the federal poverty level as indigent based on his or her financial circumstances.

Notification Requirements.

Hospitals are required to notify a person who may be eligible for charity care. Notice that charges for indigent persons may be waived or reduced must be: (1) prominently displayed in the public areas of the hospital; (2) provided to the individual in writing and explained at the time the hospital requests information regarding the availability of third-party coverage, in any language spoken by more than 10 percent of the population in the hospital's service area; and (3) interpreted for other non-English speaking patients, limited-English speaking patients, or other patients who cannot read or understand the writing and explanation.

Charity Care Determination Procedural Requirements.

A hospital is required to make every reasonable effort to determine a patient's family income, eligibility for charity care, and private or public sponsorship. The hospital's initial determination of sponsorship status must be completed at the time of admission or as soon as possible following initiation of services. If the patient is cooperative, the hospital may not initiate collection efforts pending a determination of sponsorship status.

If the patient is initially determined to be indigent, the hospital must give the patient time to provide supporting documents. The hospital must notify the patient of its determination of sponsorship status within 14 calendar days of receiving information. Patients may apply for charity care at any time, and if a patient pays for hospital charges and is subsequently found to have met the charity care criteria, the hospital must refund excess payments.

Penalties.

A person who violates or knowingly aids and abets a violation of the charity care policy, eligibility determination, or notice requirements is guilty of a misdemeanor and may be subject to a civil penalty of up to \$1,000 per day for noncompliance. The accused may also be enjoined from continuing to violate the charity care requirements.

Summary of Engrossed Substitute Bill:

The following statement must be included in all hospital billing statements: "You may qualify for a discount for some or all of your hospital bill, whether or not you have insurance. Please contact our financial assistance office at"

The statement must be in English and the non-English language most commonly spoken by the non-English speaking or limited-English speaking population in the hospital's service area. The notification statement does not need to be included in any preprinted hospital billing statements that exist as of the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on October 1, 2017.

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) Charity care is foundational to providing health care for the poor. Hospitals have repeatedly pledged to voluntarily comply with the law, but every year, hundreds of individuals who qualify for charity care do not access it simply because they are unaware it exists. Once a patient is home from the hospital and recovering, his or her medical emergency has passed and the patient can then consider how to pay for treatment. Thus, it makes sense to give patients additional notice at this time. This bill increases awareness, increases access, and creates a level playing field among hospitals by requiring them all to meet the same standards.

This bill goes beyond just hospitals and requires medical debt collectors to notify patients of charity care availability. Many low-income individuals face large debts without a lawyer, judgments that can last 20 years, wage garnishment, and an interest rate of 12 percent. While awards of charity care result in the dismissal of collection lawsuits, once a judgment is entered, there is a complicated process for voiding a judgment. These debts would not have existed had the individuals known to apply for charity care.

This bill is also important because it serves non-English speakers. Many low-income, limited-English speakers have issues with accessing charity care and with medical debt. Even in English, it is difficult to find information about charity care on a hospital's website.

(Opposed) While hospitals share the goals of the bill, the timing and other requirements of the bill are neither simple nor easy to implement. Hospitals are already subject to several requirements regarding charity care notice, specifically when patients are asked about third-party coverage. Many hospitals have already opted into a standard application form and communication plan to address these issues.

In addition to voluntary work, which also includes a notice statement about charity care on all billing statements, nonprofit hospitals must comply with federal laws. Hospitals are willing to work further on this issue, but this bill, particularly the oral notification requirements, is not workable because it is not clear what translation requirements would apply to hospitals.

Collection agencies are also opposed to the bill because concerns about notice should be dealt with upfront, by hospitals. Collection agencies are not charitable agencies and are not structured to provide charity. Collection agencies are governed by federal law, and this bill may create conflicts with those federal obligations.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill does not expand any current obligations regarding charity care, it just ensures that hospitals give patients meaningful notice of charity care availability. While there may be some increase in the number of charity care applications, some of the hospital estimates found in the fiscal note seem high because the bill only requires adding a notice statement to billing statements. Compliance with the bill's requirements are simple, and hospitals are already required to make charity care eligibility determinations and provide it when the applicant is eligible.

(Opposed) None.

Persons Testifying (Health Care & Wellness): (In support) Representative Jinkins, prime sponsor; Ann LoGerfo, Columbia Legal Services; Julia Kellison, Northwest Justice Project; Janet Varon, Northwest Health Law Advocates; and Audrey Udashen, Office of the Attorney General.

(Opposed) Zosia Stanley, Washington State Hospital Association; and Amber Steele and Kelsi Hamilton, Washington Collectors Association.

Persons Testifying (Appropriations): Michael Althaus, Columbia Legal Services.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.