

# HOUSE BILL REPORT

## ESHB 2836

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**As Passed House:**  
February 13, 2018

**Title:** An act relating to delineating charity care and notice requirements without restricting charity care.

**Brief Description:** Delineating charity care and notice requirements without restricting charity care.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Harris, Cody, Tharinger, Stonier, Slatter, Clibborn, Macri, Riccelli, Robinson, Valdez, Appleton and Johnson).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 1/30/18, 1/31/18 [DPS].

**Floor Activity:**

Passed House: 2/13/18, 92-6.

**Brief Summary of Engrossed Substitute Bill**

- Requires hospitals to provide notice of charity care policies in specific areas of the hospitals, such as where patients are admitted, on the hospital's website, and on all billing and collection documents.
- Requires hospitals to develop standardized training programs on the hospital's charity care policy and the use of interpreter services, and provide regular training for appropriate staff.
- Defines "third-party coverage" and clarifies the definition of "charity care."

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cody, Chair; Macri, Vice Chair; Caldier, Clibborn, Jinkins, Riccelli, Robinson, Slatter, Stonier and Tharinger.

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*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.*

**Minority Report:** Do not pass. Signed by 6 members: Representatives Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; DeBolt, Harris, MacEwen and Maycumber.

**Staff:** Kim Weidenaar (786-7120).

### **Background:**

#### General Charity Care Requirements.

Washington hospitals may not deny patients access to emergency care because of inability to pay. Hospitals are 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 101-200 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 an indigent person eligible for a discount based on his or her financial circumstances.

#### Notification Requirements.

Hospitals are required to notify a person who may be eligible for charity care. Department rules require that 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. Department rules require 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:**

#### General Charity Care Requirements.

The provision providing that charity care for persons with a family income below 100 percent of the federal poverty level covers the full amount of hospital charges is clarified to state that the charges are fully covered except to the extent that the patient has third-party coverage for the charges, rather than provided the individual is not eligible for other private or public health coverage sponsorship.

For purposes of determining charity care eligibility, the income considered is the patient's annual family income at the time health services were provided or at the time of application if made within two years, the patient has been making good faith efforts toward payment and demonstrates eligibility for charity care. Hospitals have the discretion to consider an application at any time.

Hospitals must develop standardized training programs on the hospital's charity care policy and the use of interpreter services. Hospitals must provide regular training for appropriate staff, including relevant and appropriate staff who perform functions relating to registration, admissions, or billing.

#### Notification Requirements.

Language in the current law that requires hospitals notify persons who may be eligible for charity care is replaced with the following notice requirements:

- Hospitals must post and prominently display notice of charity care availability.
- Notice must be displayed in areas where patients are admitted or registered, in emergency departments, and financial service or billing areas where accessible to patients.
- Current versions of the hospital's charity care policy, a plain language summary of the policy, and the application form must be available on the hospital's website.

These notices and forms must be available in all language spoken by more than 10 percent of the population in the hospital's service area.

All hospital and billing statements and other written communications concerning billing or collections of a hospital bill must include the following statement, or something substantially similar, that is prominently displayed on the first page of the billing 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 [website] and [phone number]."

Preprinted hospital billing statements that are in existence as of October 1, 2018, are not required to be altered.

Definitions.

The definition of "charity care" is clarified to mean 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.

"Third party coverage" is defined as 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 provided in 26 U.S.C. Sec 5000A to pay for the care of covered patients and services, and may include settlements, judgements, 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, judgements, or awards, must not stay hospital obligations to consider an eligible patient for charity care.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on October 1, 2018.

**Staff Summary of Public Testimony:**

(In support) The Health Care and Wellness Committee heard a similar bill last year, and updating charity care has been a bumpy road and a long bit of work, but this bill is a continuation of the last few years of work and is a good step forward. The bill represents compromise and an agreement between a number of stakeholders. The current statutes are not very clear, and steps to update and clarify the statutes are supported.

While many hospitals comply with charity care laws and encourage people to apply, some do not. Some hospitals do not give out accurate information and timely notice, or set up barriers to obtaining charity care. There was also uncertainty as to the best times to notify individuals about charity care availability. Many individuals do not know about charity care, particularly non English speakers, but this bill provides notice and breaks down barriers, particularly for those who do not speak or understand English. When patients do not know about financial assistance, no one wins.

(Opposed) None.

(Other) While the language access requirements are supported, there is concern about the language that specifies that for purposes of charity care eligibility, the patient's family income is the income at the time the health care services were provided. This could preclude some from charity care. Charity care is a safety net program and the title of this bill states that it does not restrict charity care, but this provision would add additional barriers.

**Persons Testifying:** (In support) Representative Jinkins, prime sponsor; Ann LoGerfo, Columbia Legal Services; and Zosia Stanley, Washington State Hospital Association.

(Other) Janet Varon, Northwest Health Law Advocates.

**Persons Signed In To Testify But Not Testifying:** None.