

STAFF CLARIFICATIONS AND INTERPRETATIONS OF PROPOSED AMENDMENTS

HG §19–214.2(e)(3)(ii), as amended, prohibits hospitals from seeking legal action against a patient to collect a debt starting January 1, 2022, until the hospital has established and implemented a payment plan policy that complies with the guidelines drafted by the HSCRC. HSCRC interprets this provision to mean that hospitals may not initiate lawsuits on or after January 1, 2022, until the requirements of HG §19–214.2(e)(3)(ii) are met. HSCRC also interprets the effect of this law to be prospective. Thus, lawsuits initiated by a hospital (through the filing of a complaint) before January 1, 2022, may continue through the legal process, or hospitals may choose to end such lawsuits or request a delay from the courts.

Also, HG §19–214.2(e)(5) states that, beginning on January 1, 2022, a hospital must demonstrate that it attempted in good faith to meet the requirements of HG §19–214.2(e) and the guidelines developed by the HSCRC under subsection (e)(3) of HG §19–214.2 before the hospital files an action to collect a debt owed on a hospital bill by a patient or delegates collection activity to a debt collector for a debt owed on a hospital bill by a patient.

- *Litigation:* As noted above, the initiation of lawsuits is prohibited until the requirements of HG §19–214.2(e)(3)(ii) are met. After a hospital meets the requirements of HG §19–214.2(e)(3)(ii), hospitals must demonstrate good faith efforts to comply with HG §19–214.2(e) to initiate a lawsuit.
- *Debt collectors:* Hospitals must demonstrate good faith efforts to comply with HG §19–214.2(e) to delegate collection activity to a debt collector for a debt owed on a hospital bill by a patient. For any time between January 1, 2022, and the date on which HSCRC provides the guidelines required by HB 565, HSCRC shall consider a hospital’s good faith effort to comply with the requirements stated in HG§19–214.2(e)(3)(i) as equivalent to a good faith effort to comply with the guidelines.

This does not mean that there is a moratorium on collection efforts. Hospitals can continue in-house collection activities and can delegate collection activity to a debt collector if a hospital demonstrates “good faith” efforts (referenced below) to comply with the requirements of HG§19-214.2(e)(3)(i).

The purpose of bringing forth the proposed regulation amendments to the Commission in May was to update existing HSCRC regulations and bring some clarity to certain provisions of the law which, in the view of HSCRC staff, needed clarification.

- The changes proposed by HSCRC staff to COMAR 10.37.10.26 largely conform to the requirements added to HG 19-214.1 and 19-214.2 by Chapter 770 of 2021. Some of the proposed changes do not precisely mirror the language of the statute. These changes fall into the follow main categories:
 - In most of these instances, HSCRC staff added language or changed current language to provide clear expectations for implementation of the law in areas where HSCRC staff and the Office of the Commissioner of Financial Regulation (OCFR) staff believed that the law was ambiguous and would benefit from clarification to remain consistent with its intent. This includes:

- “Good faith”

- The law states hospitals must make a “good faith” effort to comply with a subsection of the law before, among other things, delegating collection activities to a debt collector.
- HSCRC’s proposed language clarifies what constitutes “good faith” and when in the debt collection process hospitals may partner with debt collectors and what roles debt collectors may have in that process. See section B-1(3) of the proposed amendments.
- We believe this will help to ensure all stakeholders have a clear understanding of expectations for implementation of this requirement.
- Nothing in this language overrides or limits the requirement that hospitals and debt collectors are jointly and severally responsible for meeting the requirements of this law.
- “Initial bill”
 - The law also uses different terms to refer to the first bill sent by a hospital to a patient for services they receive (after the patient leaves the hospital).
 - In the proposed regulations, we have standardized all those references by using the term “initial bill” throughout regulations and defining it.
 - This definition aligns with federal law (Section 501(r) of the ACA), and will, for example, help clarify when certain debt collection procedural timelines enumerated in the law begin.
- Including notification of payment plans in the information sheet
 - The law requires that hospitals “provide in writing...information about the availability of an installment payment plan for the debt” before the patient is discharged, with the hospital bill, on request, and in each written communication to the patient regarding collection of hospital debt.
 - Given that the information sheet, which provides other information related to paying for hospital services, we thought it would make sense to include information about payment plans in the information sheet instead of creating a whole other notice.
 - We have also added several details, such as that the information sheet must be provided in writing, to align with the requirements for notification of payment plans.
 - We believe these changes align with existing hospital practices so should have a minimal effect on current hospital operations.
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- Staff changed the timeframes for the financial assistance and debt collection reporting to align with existing reporting processes more accurately.
- Finally, staff made some edits that generally cleaned up the existing regulations, including removing current language that was no longer applicable.

We trust that you will adhere to the Commission’s proposed amendments as they appeared in the Maryland Register on August 26 with respect to those areas of clarification of the new law as provided.