



To: Chief Executive Officers and Chief Financial Officers

CC: Brett McCone, Maryland Hospital Association; Kimberly S. Cammarata, Health Education and Advocacy Unit, Office of the Attorney General

From: Dennis N. Phelps – Deputy Director, Integrity & Compliance

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Re: Questions and Answers on Income-Based Payment Plan Compliance

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**Q. Are the provisions of Health General §19-214.2(e)(5)(i)(1) and (2) the only consequences if a hospital does not implement a payment policy that matches the income-based payment plan guidelines?**

A. No. There is an affirmative obligation on hospitals under Health General §19.214.2(e) to offer income-based payment plans to patients and provide patients with information about those plans. Failure to provide this information is a violation of Health General §19.214.3 and the Maryland Consumer Protection Act. Under the Maryland Consumer Protection Act, failing to affirmatively make a legally required disclosure ((such as the information requirements under Health General §19.214.2(e)(1) and (2)) is a violation. Misleading a consumer (for example by making a disclosure that is unclear or hard to find) is also a violation of the Maryland Consumer Protection Act. To the extent a hospital attempts to collect debt, the hospital may also be subject to similar provisions in the Consumer Debt Collection Act.

**Q. What is your view of hospital compliance with the payment plan guidelines if the hospital asks for, but did not receive, the relevant information, either the income verification documents or self-attestation?**

A. The determination of hospital compliance in this situation will depend on the facts. The hospital may be compliant in this situation. On the other hand, if information provided by the hospital is not clear, the email box or phone number provided to the patient for questions about attestation or income documentation is not adequately resourced, or other barriers prevented a consumer from getting help in providing the information or understanding why the information was needed, that hospital may not be compliant, even if it offered the plan and provided information at the times it was required to be provided.

**Q: If a payment plan is not offered to the patient, is the hospital in violation of the law?**

A: Yes. A hospital is in violation if it does not offer an income-based payment plan to a patient.

**Q. May the hospital take legal action to collect the outstanding balance of the patient if the patient does not provide income documentation or a self-attestation?**

A: This is fact dependent. For example, did the patient have adequate information and access to support an understanding of what was required and why it was important?

**Q: What is your view of the hospital's burden to provide an analysis of each payment plan using the patient's income if it does not provide the information at the time of the payment plan? Hospitals do analyze patient income when determining financial assistance, but this process is separate from when patients typically set up payment plans.**

Response: The 2021 changes to Health General §19-214.2 create a new obligation on hospitals to analyze the patient's income for income-based payment plans. Hospitals already had the obligation to analyze patient income for financial assistance under Health General §19-214.1. Hospitals should evaluate what changes need to be made to their current processes to meet the requirements of the law. To the extent hospitals have income information, they should use this information both for financial assistance and income-based payment plan purposes. This is particularly important for people who qualify for reduced cost care, who also want an income-based payment plan, and for people who apply for financial assistance and are denied that support due to income. That income information should be used to inform them of what their payment plan options are.

