

PROPOSED REGULATION PUBLICATION FORMS

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

10.37.10 Rate Application and Approval Procedures

Authority: Health-General Article, §§19-207, 19-214.1, 19-214.2, and 19-214.3, Annotated

Code of Maryland

Is There Emergency Text That Is Identical To The Proposed Text:

Yes No

Is There An Incorporation By Reference Document Associated With This Proposal?

Yes No

Does This Proposal Have An Impact On Environmental Hazards Affecting The Health Of Children As Defined In Health-General Article, §13-1501(c)?

Yes (explain) No

Does This Proposal Include An Increase Or Decrease In A Fee For A License?

Yes, complete (1)—(8) No, skip (1)—(8) and proceed to Notice of Proposed Action.

- (1) Explain/justify why an increase or decrease is necessary:
- (2) How much money is needed to operate effectively or to eliminate an operating fund deficit?
- (3) In what year was the most recent fee increase?
- (4) Is the fee revenue retained by the Proposing Unit or passed through to a national organization that administers a uniform licensing exam?
- (5) Describe any measures taken to mitigate the need for increased revenue:

- (6) Describe any special circumstances that have had an adverse impact on the Proposing Unit's operating expenses.
- (7) Describe any consideration given by the Proposing Unit as to the hardship a fee increase may have on the regulated profession.
- (8) Describe any efforts to solicit the opinions of licensees regarding the Proposing Unit's effectiveness and performance.

Notice of Proposed Action

The Secretary of Health proposes to amend Regulation .26 under **COMAR 10.37.10 Rate Application and Approval Procedures**.

This action was considered and approved for promulgation by the Commission at an open meeting held on October 14, 2020, notice of which was given through publication on the Commission's website under General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to have the Commission's existing regulations on Patient Rights and Obligations – Hospital Credit and Collection and Financial Assistance Policies conform to legislation enacted in the 2020 Maryland General Assembly legislative session.

**Comparison to Federal Standards
(Check one option)**

There is no corresponding federal standard to this proposed action.

or

There is a corresponding federal standard to this proposed action, but the proposed action **is not** more restrictive or stringent.

The corresponding federal standard is: _____

EXPLAIN why the proposed action **is not** more restrictive or stringent than the corresponding federal standard:

or

This proposed action **is** more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

(2) Benefit to the public health, safety or welfare, or the environment:

- (3) Analysis of additional burden or cost on the regulated person:
- (4) Justification for the need for more restrictive standards:

**Impact Statements
Part A
(check one option)**

Estimate of Economic Impact

The proposed action has no economic impact.

Or

The proposed action has an economic impact. (IF this is checked, complete the following form in its entirety)

I. Summary of Economic Impact. (INSERT SHORT SUMMARY)

The proposed amendments update the Commission's existing regulations to conform to legislation House Bill 1420, which was enacted during the 2020 session of the Maryland General Assembly. These changes will enhance the ability of qualified patients to access financial assistance in accordance with the financial assistance policies of Maryland hospitals. These changes will also enable patients or their authorized representatives to file a complaint with the Commission, and if desired, jointly with the Health Education and Advocacy Unit of the Maryland Attorney General's Office, for alleged violations of the enacted legislation relating to financial assistance.

II.	Types of Economic Impact.	Revenue (R+/R-) <u>Expenditure (E+/E-)</u>	<u>Magnitude</u>
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A. On issuing agency: NONE

B. On other State agencies: NONE

C. On local governments: NONE

		Benefit (+) <u>Cost (-)</u>	<u>Magnitude</u>
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D. On regulated industries or trade groups: NONE

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: + **Indeterminable**

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

The assumption is based on the belief that qualified patients will benefit from greater access to financial assistance and the ability to file a complaint for violations of the legislation relating to financial assistance.

Part B

**Economic Impact on Small Businesses
(check one option)**

- The proposed action has minimal or no economic impact on small businesses.
- or
- The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

**Impact on Individuals with Disabilities
(check one option)**

- The proposed action has no impact on individuals with disabilities.
- or
- The proposed action has an impact on individuals with disabilities as follows:
(Agency to complete this assessment)

Opportunity for Public Comment

Comments may be sent to Dennis Phelps, Deputy Director, Audit and Compliance, Health Services Cost Review Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215, at dennis.phelps@maryland.gov. Comments will be accepted through LEAVE BLANK. A public hearing has not been scheduled.

**Part C
(For legislative use only; not for publication)**

- A. Fiscal Year in which regulations will become effective: FY2021
- B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?
 Yes No N/A
- C. If “yes”, state whether general, special (exact name), or federal funds will be used:
- D. If “no”, identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason.

The regulations merely instruct hospitals on how to account for and report their expenses and revenues.

USING THE ELF INSTRUCTIONS, INSERT AMENDMENTS FROM ON-LINE COMAR OR TYPE NEW MATERIAL AND DELETE THIS SENTENCE.

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

Chapter 10 Rate Application and Approval Procedures

Authority: Health-General Article, §§19-207, 19-214.1, 19-214.2, and 19-214.3, Annotated Code of Maryland

.26 Patient Rights and Obligations; Hospital Credit and Collection and Financial Assistance Policies.

A. (text unchanged)

(1) Each hospital shall develop an information sheet that:

(a)—(f) (text unchanged)

(g) Informs patients of their right to request and receive a written estimate of the total charges for the hospital nonemergency services, procedures, and supplies that reasonably are expected to be provided and billed for by the hospital[.]; and

(h) Informs a patient or a patient's authorized representative of the right to file a complaint with the Commission or jointly with the Health Education and Advocacy Unit of the Maryland Attorney General's Office against a hospital for an alleged violation of Health-General Article, §§19-214.1 and 19-214.2, Annotated Code of Maryland, which relate to financial assistance and debt collection. The Hospital shall provide the patient with the contact information for filing the complaint.

(2) The information sheet shall be in:

(a) Simplified language in at least 10 point type; and

(b) The patient's preferred language or, if no preferred language is specified, each language spoken by a limited English proficient population that constitutes 5 percent of the overall population within the city or county in which the hospital is located as measured by the most recent census.

[(2)] (3) The information sheet shall be provided to the patient, the patient's family, or the patient's authorized representative:

(a)—(b) (text unchanged)

(c) With the hospital bill; [and]

(d) On request[.]; and

(e) In each written communication to the patient regarding collection of the hospital bill.

[(3)] (4)—[(4)] (5) (text unchanged)

A-1. (text unchanged)

A-2. Hospital Financial Assistance Responsibilities.

(1) (text unchanged)

(2) Financial Assistance Policy.

(a) On or before June 1, 2009, each hospital and on or before October 1, 2010, each chronic care hospital under the jurisdiction of the Commission shall develop a written financial assistance policy for providing free and reduced-cost care to low-income patients who lack health care coverage or to patients whose health insurance does not pay the full cost of the hospital bill. *A hospital shall provide notice of the hospital's financial assistance policy to the patient, the patient's family, or the patient's authorized representative before discharging the patient and in each communication to the patient regarding collection of the hospital bill.* The financial assistance policy shall provide at a minimum:

(i)—(iii) (text unchanged)

(iv) A payment plan available to [uninsured] patients irrespective of their insurance status with family income between 200 and 500 percent of the federal poverty level who request assistance; and

(v) A mechanism for a patient, irrespective of that patient's insurance status, to request the hospital to reconsider the denial of free or reduced care. This mechanism shall include the address, phone number, facsimile number, e-mail address, mailing address, and website of the Health Education and Advocacy Unit, which can assist the patient or patient's authorized representative in filing and mediating a reconsideration request.

(b)—(f) (text unchanged)

(3) Each hospital shall submit to the Commission within 60 days after the end of each hospital's fiscal year:

(a) The hospital's financial assistance policy developed under §A-2 of this regulation; and

(b) An annual report on the hospital's financial assistance policy that includes:

(i) The total number of patients who completed or partially completed an application for financial assistance during the prior year;

(ii) The total number of inpatients and outpatients who received free care during the immediately preceding year and reduced-cost care for the prior year;

(iii) The total number of patients who received financial assistance during the immediately preceding year by race or ethnicity and gender;

(iv) *The total number of patients who were denied financial assistance during the immediately preceding year by race or ethnicity and gender;*

(v) *The total amount of the costs of hospital services provided to patients who received free care; and*

(vi) *The total amount of the costs of hospital services provided to patients who received reduced-cost care that was either covered by the hospital as financial assistance or that the hospital charged to the patient.*

[(3)] (4)—[(5)] (6) (text unchanged)

(7) *The notice required under §A-2(6) of this regulation shall be in:*

(a) *Simplified language in at least 10 point type; and*

(b) *The patient's preferred language or, if no preferred language is specified, each language spoken by a limited English proficient population that constitutes 5 percent of the overall population within the city or county in which the hospital is located as measured by the most recent census.*

[(6)] (8) (text unchanged)

[(7)] (9) *Each hospital shall establish a mechanism to provide the Uniform Financial Assistance Application to patients [who do not indicate public or private health care coverage] regardless of their insurance status. A hospital may require from patients or their guardians only those documents required to validate the information provided on the application.*

[(8)] (10) *Asset Test Requirements. A hospital may, in its discretion, consider household monetary assets in determining eligibility for financial assistance in addition to the income-based criteria, or it may choose to use only income-based criteria. If a hospital chooses to utilize an asset test, the following types of monetary assets, which are those assets that are convertible to cash, shall be excluded:*

(a) (text unchanged)

(b) *A “safe harbor” equity of \$150,000 in a primary residence; [and]*

(c) *Retirement assets to which the Internal Revenue Service has granted preferential tax treatment as a retirement account, including, but not limited to, deferred-compensation plans qualified under the Internal Revenue Code or nonqualified deferred-compensation plans[.]; and*

(d) *One motor vehicle used for the transportation needs of the patient or any family member of the patient;*

(e) *Any resources excluded in determining financial eligibility under the Medical Assistance Program under the Social Security Act; and*

(f) *Prepaid higher education funds in a Maryland 529 Program account.*

(11) *Monetary assets excluded from the determination of eligibility for free and reduced-cost care under these provisions shall be adjusted annually for inflation in accordance with the Consumer Price Index.*

(12) *In determining the family income of a patient, a hospital shall apply a definition of household size that consists of the patient and, at a minimum, the following individuals:*

(a) *A spouse, regardless of whether the patient and spouse expect to file a joint federal or State tax return;*

(b) *Biological children, adopted children, or stepchildren; and*

(c) *Anyone for whom the patient claims a personal exemption in a federal or State tax return.*

(13) *For a patient who is a child, the household size shall consist of the child and the following individuals:*

(a) *Biological parents, adopted parents, or stepparents or guardians;*

(b) *Biological siblings, adopted siblings, or stepsiblings; and*

(c) *Anyone for whom the patient's parents or guardians claim a personal exemption in a federal or State tax return.*

A-3. Patient Complaints.

The Commission shall post a process on its website for a patient or a patient's authorized representative to file with the Commission a complaint against a hospital for an alleged violation of Health-General Article, §§19–214.1 or 19–214.2, Annotated Code of Maryland. The process established shall include the option for a patient or a patient's authorized representative to file the complaint jointly with the Commission and the Health Education and Advocacy Unit. The process shall conform to the requirements of Health-General Article, §19-214.3, Annotated Code of Maryland.

B. —C. (text unchanged)

Adam Kane, Chair

Health Services Cost Review Commission