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Washington: Expansive Financial Assistance Policy does not Affect Prices; Other Efforts are Underway

Washington has one of the most expansive laws in the country requiring hospitals to provide free or discounted care. Amendments passed in 2022 made as much as half the state's residents potentially eligible for hospital discounts. Advocates see the law as an imperfect defense against high hospital prices in the state: while it provides discounts for many, it does not systematically affect the prices that underlie the discounts. Community Catalyst's compendium of state policies to moderate hospitals' prices and reduce medical debt shows that Washington's laws compare favorably with most other states and could potentially be models for advocates and policymakers.ⁱ However, there are gaps in how the law is implemented by hospitals, resulting in many patients who should be eligible for assistance being left vulnerable to high hospital prices and aggressive medical debt collection tactics.

A glaring example of these gaps is the recent \$158 million judgment against Providence Health and its affiliates. Between 2018 and 2022, Providence hospitals billed patients eligible for financial assistance, failed to inform them of the availability of charity care, and trained their staff in aggressive and deceptive collection tactics. About 160,000 Washington residents were affected, with 100,000 to receive refunds, including interest, or have their outstanding debt forgiven.ⁱⁱ

This spotlight looks at Washington's charity care law and the recent changes made to it, the effectiveness of the law in curbing hospital prices and reducing medical debt, and what more might be done to achieve those aims. The information in the spotlight is largely qualitative, based on a few interviews with knowledgeable health advocates and state regulators and a review of news accounts and other public sources. Additional research and analysis would be required to reach definitive conclusions.

Overview of hospitals' prices and medical debt in Washington

In 2021, the average price for an inpatient service in Washington was just under \$28,000, according to the Health Care Cost Institute (HCCI).ⁱⁱⁱ This was about 4% higher than the national average price, and one-third of the median household income in Washington of \$84,247.^{iv} The average price of an outpatient visit was \$459, 9% above the national average. Further, the average out-of-pocket expense for an inpatient hospital stay, in the form of deductibles, copayments, and coinsurance, was \$1,160, 15% higher than the national average.^v While the latter figure may not seem exorbitant, out-of-pocket obligations are a key driver of medical debt for people with health insurance, and the median medical debt in collections^{vi} in Washington was \$551 in 2022.^{vii}

Prices have continued to go up in the past two years. A letter sent to state legislators in late 2023 from Washington’s Blue Cross and Blue Shield plans reports that hospitals are beginning rate negotiations with requests for rate increases of 50% to 75% over three years, despite noting that “many providers are again profitable, and ... are simply asking payers for significantly higher reimbursement.”^{viii}

Despite these trends, medical debt in Washington is modest relative to other states. Just 5% of the state’s population had medical debt in collections in 2022, compared with 13% nationally.^{ix} There are disparities in who has medical debt, though: just 4% of people in white communities, but 7% in communities of color.^x Washington’s charity and discounted care law is likely responsible in some part for this relatively low level of medical debt, alongside state decisions to expand Medicaid under the Affordable Care Act, implement state premium assistance and standardized cost-sharing designs for the state insurance Exchange, and expand state-funded Medicaid look-alike programs for undocumented immigrants. While the law is effective in ensuring that many Washingtonians receive hospital care at a discount, its impact on the general level of hospital prices is questionable.

Key details of the policy

Washington has had a policy requiring hospitals to provide free and discounted care to eligible patients since 1989. The 2022 amendments sought to make the law more expansive by broadening the group to which it applies and requiring hospitals to screen patients for eligibility for health care coverage through the Medicaid program or the state-based insurance exchange, Washington Healthplanfinder.^{xi} The law raised the income eligibility threshold for charity and discounted care, so now it is estimated that one-half of Washington’s 7.8 million residents are potentially eligible for charity care.

Specifically, the law prescribes that “Tier 1” hospitals – health systems owning three or more acute care hospitals, and other large hospitals in King and Clark Counties – provide full charity care to patients with income up to 300% of the federal poverty level.^{xii} Patients with income between 301% and 350% of FPL receive a 75% discount, and those with income between 351% and 400% of FPL receive a 50% discount. For all other hospitals in the state – “Tier 2” hospitals – charity care is available to patients up to 200% FPL, with discounts up to 300%. Prior to 2022, charity care was required only for patients up to 100% of FPL, though hospitals were permitted to go higher, and some did. The law applies to both uninsured and insured patients; for patients with insurance, the full and partial discounts apply to their out-of-pocket expenses – deductibles, copayments, and coinsurance.^{xiii}

Other provisions of the law were unchanged by the 2022 amendments. Hospitals are required to post notices of charity care eligibility in registration areas, emergency departments, and financial services areas, in all languages spoken by more than 10% of the population of the hospital's service area. The charity care policy and application must be posted on the hospital's website, and notice of the availability of free and discounted care must be included in all communications concerning billing and collections. Hospitals must make efforts to determine a patient's eligibility for charity care, and they may consider a patient's application for charity care at any time.^{xiv}

Effectiveness of the policies

Curbing hospital prices

There is little evidence that Washington's charity care law has had a systemic effect on hospital prices. In fact, some observers feel that this relatively strong charity care law is having the opposite effect by muting conversation about the need to control prices and providing hospitals a rationale for increasing them.^{xv} While it provides for discounts on charges, the law does not address the charges themselves, which, for people without insurance, can be quite inflated relative to a hospital's costs.^{xvi} Charity care is a very small part of a hospital's budget – about 1.2% of expenses, less than half the level prior to the coverage expansions that came with the Affordable Care Act.^{xvii} Mathematically, charity care has a small impact on hospitals' bottom lines; nevertheless, it appears that prices have been increasing since the charity law expanded, as discussed above.

Improving affordability

Washington's charity care law improves the affordability of health care for patients who can apply and qualify for free or discounted hospital services. Many in the state have benefited since the policy has been in place and with the 2022 expansion, more than half the population is now eligible for free or discounted care. Others may have gained insurance coverage as a result of the law's screening requirement.

However, advocates report that not all eligible patients benefit because of inconsistencies in how the law is implemented and gaps in the law itself.^{xviii} In addition, charity care rules apply only to the hospital and its staff, not to professionals who practice in the hospital but bill separately, nor to ambulance companies. Those bills can drive considerable medical debt independent of hospital bills. The law's language is also ambiguous in some areas. Its definitions of "hospital-based" and "medically necessary" and lack of clarity about how income relative to the FPL should be measured allow individual interpretations that lead to uneven application of the law.

Enforcement

The state Department of Health (DOH) is charged with monitoring and reporting on the distribution of charity care in Washington, including “assess[ing] the effects of the provisions of this chapter on access to hospital and health care services, as well as an evaluation of the contribution of all purchasers of care to hospital charity care.”^{xxix} DOH has the authority to impose financial penalties on hospitals that violate the charity care law.^{xx} Historically, DOH has been lax in carrying out this enforcement role, and ineffectual in addressing the inconsistencies in hospitals’ written policies and in how they carry them out.^{xxi} DOH has taken a more active stance since the 2022 amendments were enacted, spending more time helping patients, investigating complaints, and taking enforcement actions calibrated to the seriousness of the violation and a hospital’s responsiveness. DOH has also issued guidance on some aspects of the law’s requirements and is leading a rulemaking process to clarify statutory language, standardize practices, and consider stakeholders’ concerns over other aspects of the law.

What more could/should be done to address high hospital prices and medical debt?

Advocates believe that Washington’s charity care law can be strengthened so that eligible people would be more likely to benefit from it. The current rulemaking process, for example, can do this by clarifying language, strengthening information requirements, and simplifying applications. Additionally, extension of the law to non-staff professionals practicing in hospitals and ambulances would reduce the impact of two frequent sources of medical debt.

It is important to note that these improvements would likely have a positive effect on medical debt but are unlikely to significantly change the trajectory of hospital prices. However, under the banner of the Fair Health Prices Washington campaign, a coalition of organizations is pursuing policy solutions that would more directly address prices. The coalition favors granting new authority to the state Health Care Cost Transparency Board to publicly identify health care providers with excessive cost increases, ban inflationary practices in contract negotiations between insurers and providers, and increase the scrutiny of mergers, acquisitions, and affiliations that could increase prices, while giving the attorney general authority to disapprove such transactions.^{xxii}

Another possible model for reining in hospital prices is in Colorado. A law passed there in 2021 limits the price a hospital may charge patients eligible for financial assistance to the

Medicare or Medicaid level, whichever is higher. The Colorado law further addresses affordability by limiting the collection of outstanding bills to 4% of monthly income for hospital bills and 2% for bills owed to health care professionals. After 36 months of payments, the law requires the hospital to forgive any remaining balance and to consider the bill to be paid in full. While improvements are still needed in Colorado’s law – underinsured patients do not have as easy access to discounts as uninsured patients, and not everyone is properly informed about the availability of assistance – the features described here could help Washington take another step toward curbing prices and reducing debt.^{xxiii}

Conclusion

Washington’s charity care law has served many people well over the years, but many others who should have benefited from it did not. The 2022 amendments expand the population who qualify for free or discounted care. Improvements in efforts to increase knowledge about its availability, whether through regulation or further legislation, would increase its use and likely result in less medical debt. Sources of debt beyond hospital bills remain beyond the reach of the law. Hospital prices are not significantly affected by the charity care law, apart from the effect on individual hospital bills. However, current policy advocacy focuses directly on prices through efforts targeting the inflationary impact of health care consolidation and encouraging greater transparency about the drivers of increasing costs.

ⁱ <https://communitycatalyst.org/resource/50-states/>

ⁱⁱ Office of the Attorney General, “AG Ferguson: Providence must provide \$157.8 million in refunds and debt relief for unlawful medical charges to low-income Washingtonians.” Press Release, February 1, 2024.

ⁱⁱⁱ Health Care Cost Institute, 2021 Health Care Cost and Utilization Report, April 2023. Data files: https://healthcostinstitute.org/images/pdfs/HCCUR2021_Downloadable_Data_Files.zip

^{iv} U.S. Census Bureau, American Community Survey 1- Year Estimates, 2021.

^{iv} U.S. Census Bureau, American Community Survey 1- Year Estimates, 2021.

^v Health Care Cost Institute.

^{vi} Debt reported to a major credit bureau. Includes past-due credit lines that have been closed and charged-off on the creditor’s books as well as unpaid bills reported to the credit bureaus that the creditor is attempting to collect.

^{vii} Debt in America: An Interactive Map. The Urban Institute. <https://apps.urban.org/features/debt-interactive-map/>, accessed February 20, 2024.

^{viii} Letter from Garry Strannigan, Premera Blue Cross and Jennifer Muhm, Regence BlueShield, November 2023. <https://nohla.org/wordpress/wp-content/uploads/2023/12/2023-11-29-Provider-Termination-Letter-FINAL.pdf>, accessed February 22, 2024.

^{ix} Debt in America.

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^{xi} Chapter 197, Laws of 2022, State of Washington.

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- ^{xii} An income equal to the federal poverty level is \$31,200 for a family of four in 2024.
- ^{xiii} Revised Code of Washington (RCW) 70.170.060.
- ^{xiv} RCW 70.170.060.
- ^{xv} Community Catalyst interviews with Washington stakeholders.
- ^{xvi} Bai, Ge, and Gerard F. Anderson. "US hospitals are still using chargemaster markups to maximize revenues." *Health Affairs* 35, no. 9 (2016): 1658-1664.
- ^{xvii} Charity Care in Washington Hospitals. Washington State Department of Health, January 2023. <https://doh.wa.gov/sites/default/files/2023-03/2021CharityCareinWAHospitals.pdf>, access March 20, 2024.
- ^{xviii} Community Catalyst interviews with Washington stakeholders. For example, some hospitals' staff may not properly inform and screen patients, resulting in patients not even knowing about their hospital's charity care and discount policy. They may ask for information that is not required for an eligibility determination. Hospitals are expected to train their staff on charity care policy, but the state does not mandate the content and frequency of the training. Financial assistance applications may be complicated, and a hospital may decline to accept an application after a certain amount of time. Patients with limited English and those who may be concerned about immigration status are more likely not to receive free and discounted care, though the law does not include immigration status in its eligibility criteria. The recent judgment against Providence Health for billing thousands of patients who should have received charity care is a potent illustration of how some hospitals fail to carry out their responsibilities.
- ^{xix} RCW 70.170.060 section 12.
- ^{xx} RCW 70.170.070.
- ^{xxi} Community Catalyst interviews with Washington stakeholders.
- ^{xxii} <https://fairhealthprices.org/wp-content/uploads/2024/01/2024-Policy-Summaries.pdf>, accessed February 22, 2024.
- ^{xxiii} Cite Colorado spotlight when link is available.