



Financial Assistance Policies

Summary of IRS Hospital Tax-Exemption Requirements Section 501(r) Final Rule

Hospitals must have a written policy that:

- Applies to all emergency and other medically necessary care provided by the hospital;
- Is widely publicized; and
- Includes eligibility criteria for financial assistance (FA), basis for calculating amounts charged to individuals, method for application, actions for nonpayment (if not in separate policy), sources for determinations is other than FAP application, and a list of providers delivering care in the hospital and whether they are covered under the FAP or not.

Eligibility Criteria and Application

The FAP must specify:

- All FA available under the FAP (discounts, free care or other);
- Eligibility to qualify for each discount, free care or other;
- Method to determine “amounts generally billed” (AGB) to those with insurance, and the discount percentage or how the public can obtain the percentage; and
- That an FAP-eligible individual will not be charged more than AGB for emergency or other medically necessary care.

The final rule requires the FAP to “list the providers, other than the hospital facility itself, delivering emergency or other medically necessary care in the hospital facility and to specify which providers are covered by the hospital facility’s FAP (and which are not).” The IRS offers [additional guidance](#) on the list of providers required in the FAP.

If a hospital outsources the operation of the emergency room to a third party and the care provided by the third part is not covered under the hospital’s FAP, the hospital is not considered to operate an emergency department for purposes of the factors considered in Revenue Ruling 69-545, which provides examples of whether a non-profit hospital is operated to serve a public interest.

Hospitals are allowed to have discounts (e.g., self-pay) outside their FAP and therefore outside of the amounts generally billed requirement. Such discounts cannot be reported as financial assistance on Schedule H of Form 990 nor for purposes of whether a hospital is considered under section 501(c)(3).

The FAP must describe how an individual applies for financial assistance (FA) and what information or documentation must be submitted as part of the application. FA may not be denied based on lack of information if such information was not required in the FAP or FAP application form. Hospitals can include statements in the FAP pertaining to an individual’s obligation to cooperate.

Hospitals may grant FA based on evidence other than that obtained through a FAP application, but need to describe in its FAP such sources and whether and under what circumstances it uses prior FAP-eligibility determinations for presumptive determinations. Hospitals can obtain information from an individual orally for FAP application purposes.

Hospitals that are part of a system may have identical FAPs, billing and collections policies and/or emergency medical care policies (or one joint policy document) as long as it is clear it applies to each hospital. Also note that individual hospitals may have differing AGB percentages.

Actions for Non-Payment

The FAP needs to include:

- Actions that may be taken in the event of non-payment if the hospital does not have a separate established billing and collections policy. Established means the policy has been adopted by the governing body or party authorized by the governing body;
- The process and time frames the hospital uses in taking actions, including the reasonable efforts it will make to determine whether an individual is FA-eligible before taking extraordinary collection actions (ECAs). The FAP must state if actions for nonpayment are described in a separate policy and explain how the public may readily obtain access to a free copy; and
- The office, department, committee, or other body with the authority to determine that reasonable efforts have been made to determine FAP-eligibility before ECAs are taken.

Widely Publicizing the FAP

For the FAP to be considered “widely available,” a hospital must:

- Make the FAP, application form and plain language summary of the FAP prominently on a website;
- Make paper copies of the FAP, application form and plain language summary available for free upon request in the emergency department and admissions area, as well as by mail;
- Notify and inform the community in a way designed to reach those most likely to need FA. The rule preamble states this means to affirmatively reach out to community members to notify, inform and provides examples of how this could be accomplished;
- Notify and inform individuals receiving care at the hospital about FAP by:
 - Offering a paper copy of the plain language summary as part of the intake or discharge process;
 - Including a conspicuous written notice on billing statements about the availability of FA with phone numbers of contacts who can provide information and the website where copies of the FAP, application and plain language can be obtained; and
 - Setting up conspicuous displays in public locations including the emergency department and admissions area;
- Accommodate all significant populations that have limited English proficiency by translating the FAP, application form and plain language summary into the primary languages spoken by each language group that constitutes the lesser of 1,000 individuals or 5% of community served or likely to be encountered; and
- The plain language summary must include contact information, including physical location, of a source of assistance with FAP application, which can be either the hospital itself or a different organization.

Emergency Medical Care Policy

A hospital is required to have a written policy that that hospital provides, without discrimination, care for emergency medical conditions to individuals, regardless of whether they are FAP-eligible. It must prohibit engaging in actions that discourage individuals from seeking emergency medical care, such as demanding that emergency department patients pay before receiving treatment or permitting debt collection activities that interfere with the provision of the care.

The rule provides that a hospital in compliance with EMTALA will likely not be engaging in activities prohibited under the law. Clarification is provided that this does not prohibit all payment activities in the ER, such as collection of co-pays after stabilization or discharge. This required written policy may be included within the same document as the FAP or in an already existing document related to emergency medical care.