



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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ATTORNEY GENERAL

November 24, 2021

Ms. Sandy Kraiss
Vice President | Health Policy & Finance
Illinois Health and Hospital Association
1151 E. Warrenville Road
Naperville, IL 60566
skraiss@team-ihh.org

Re: Implementation of Public Act 102-0581, effective January 1, 2022

Dear Ms. Kraiss:

On August 25, 2021, Governor Pritzker approved SB 1840. The resulting Public Act 102-0581 amends the Community Benefits Act (“CBA”), 210 ILCS 76/1, et seq. and the Hospital Uninsured Patient Discount Act (“HUPDA”), 210 ILCS 89/1, et seq. The effective date of Public Act 102-0581 is January 1, 2022. The legislation requires certain actions by Illinois hospitals and by the Office of the Attorney General (“OAG”). The following summarize these statutory changes.

Community Benefits Act

Public Act 102-0581 amends Sections 10, 15, and 20 of the CBA and adds new Section 22:

- Section 10 adds definitions for “bad debt,” “financial assistance,” and “net patient revenue,” and adds to existing definitions such as “charity care.”
- Section 15 adds a requirement for hospital community benefit plans to describe “activities the hospital is undertaking to address health equity, reduce health disparities, and improve community health,” providing examples of such activities.
- Section 20 requires that community benefits reports provide “details about financial assistance applications received and processed by the hospital as specified” in paragraph 5(a) of new Section 22 and, significantly, a health system that includes more than one hospital, charity care spending and financial assistance application data must be reported separately for each individual hospital within the health system.

- New Section 22 requires public reporting of information provided under the CBA. Hospitals must make the community benefits reports filed with OAG available on its website. Posting of audited financial statements is not required. Information provided to the public in this manner shall include:

- o the reporting period;
- o charity care costs consistent with the reporting requirements in Section 20 (with charity care costs associated with services provided in a hospital's emergency department shall be reported as a subset of total charity care costs);
- o total net patient revenue, reported separately by hospital if the reporting health system includes more than one hospital;
- o total community benefits spending;
- o data on financial assistance applications consistent with the reporting requirements in paragraph Section 20, including the number of applications submitted, the number approved, the number denied (with the 5 most frequent reasons for denial); and
- o “to the extent that race, ethnicity, sex, or preferred language is collected and available for financial assistance applications,” the data concerning financial assistance applications “shall be reported by race, ethnicity, sex, and preferred language.”

- Public reporting of the demographic information shall begin with the community benefit report filed on or after July 1, 2022. A hospital that files a report without having a full year of demographic data as required by this Act may indicate this in its report. (See below)

- The Attorney General shall provide notice on the Attorney General's website informing the public that, upon request, the Attorney General will provide the annual reports filed with the Attorney General under Section 20. The notice shall include the contact information to submit a request.

Hospital Uninsured Patient Discount Act

Public Act 102-0581 also amends Sections 5, 10, 15 and 25 of HUPDA:

- Section 5 provides definitions for new terms: “community health center,” “financial assistance,” and “free and charitable clinic.”

- Section 10 concerns the terms for various discounts for uninsured persons

- o lowers the benchmark for qualifying for a discount from \$300 to \$150;

- o lowers the amount against which the maximum collectible amount in a 12 month period from 25% of family income to 20% of family income;
- o sets out new requirements for hospital financial assistance applications such as inclusion of information regarding maximum collectible amount; language directing the uninsured patient to contact the hospital's financial counseling department with questions or concerns; and inclusion of the following:

"Complaints or concerns with the uninsured patient discount application process or hospital financial assistance process may be reported to the Health Care Bureau of the Illinois Attorney General." A website, phone number, or both provided by the Attorney General shall be included with this statement.

- Section 15 now requires hospitals to “offer uninsured patients who receive community-based primary care provided by a community health center or a free and charitable clinic, are referred by such an entity to the hospital, and seek access to nonemergency hospital-based health care services with an opportunity to be screened for and assistance with applying for public health insurance programs if there is a reasonable basis to believe that the uninsured patient may be eligible for a public health insurance program.”

- New Section 15(f) now requires hospitals shall ask for “an applicant's race, ethnicity, sex, and preferred language on the financial assistance application,” although such questions shall be “clearly marked as optional responses for the patient and shall note that responses or nonresponses by the patient will not have any impact on the outcome of the application.”

- New Section 25 (j) provides that no later than September 1, 2022, “the Attorney General shall provide data on the OAG website regarding enforcement efforts performed under this Act from July 1, 2021 through June 30, 2022. Thereafter, no later than September 1 of each year through September 1, 2027, the Attorney General shall annually provide data on the Attorney General's website regarding enforcement efforts performed under this Act from July 1 through June 30 of each year.” The data shall include the following:

- o the total number of complaints received;
- o the total number of open investigations;
- o the number of complaints for which assistance in resolving complaints was provided to constituents throughout the State by the Attorney General without resorting to investigations or actions filed;
- o the total number of resolved complaints;
- o the total number of actions filed;

- o a list of the names of facilities found by a pattern or practice to knowingly violate Section 10, along with any civil penalties assessed against a listed facility.

OAG Responses

The Charitable Trusts Bureau has submitted changes required under SB 1840 to the CBA report forms provided to hospitals by OAG as well as changes to the instructions for the preparation of CBA reports.

Notice regarding the availability of CBA reports filed with OAG under Section 20 is being added to the OAG website.

Under the amendment to Section 10 of HUPDA, OAG is providing the following “website, phone number, or both” to hospitals regarding complaints or concerns about the discount/financial assistance process for inclusion in financial assistance applications:
<https://illinoisattorneygeneral.gov/consumers/hcform.pdf>; 1-877-305-5145

Under Section 20 of the CBA, the filing of reports is to be no later than “the last day of the sixth month after the close of the hospital's fiscal year.” Many hospitals operate with calendar year as fiscal year, several operate with a June 30 end date and some with a September 30 end date. As noted above, SB 1840 was not approved by the Governor until August 25, 2021, with an effective date of January 1, 2022. *Consequently, since the new obligations under the CBA do not take effect until January 1, such new information under Public Act 102-0581 will not be required until the filings for hospital fiscal years ending after January 1, 2022.*

The reference in new Section 22 to “the community benefit report filed on or after July 1, 2022” is limited to demographic data that patients are not obligated to provide. CBA reports filed by July 1, 2022 correspond to fiscal years ending December 31, 2021.

As noted above, the effective date for statutory changes in hospital financial assistance applications is January 1, 2022. The financial assistance form each hospital uses has been governed since 2013 by the Attorney General’s rules appearing at 77 Ill. Admin. Code 4500.10, et seq. - Hospital Financial Assistance under the Fair Patient Billing Act. There is no reference in Public Act 102-0581 to OAG rules and the Fair Patient Billing Act has not been amended. When HUPDA was first enacted, it became effective immediately, except that “Sections 1 through 30 take effect 90 days after becoming law.” *Consistent with that provision, hospitals will be allowed 90 days beyond January 1, 2022 to complete the statutory changes to financial assistance applications.*

Should you have any questions, please contact the undersigned at (312) 590-7844. Thank you for your attention to these matters.

A handwritten signature in black ink, appearing to read "D.F. Buysse", written over a horizontal line.

David F. Buysse
Deputy Chief, Public Interest Division
Office of the Attorney General of Illinois