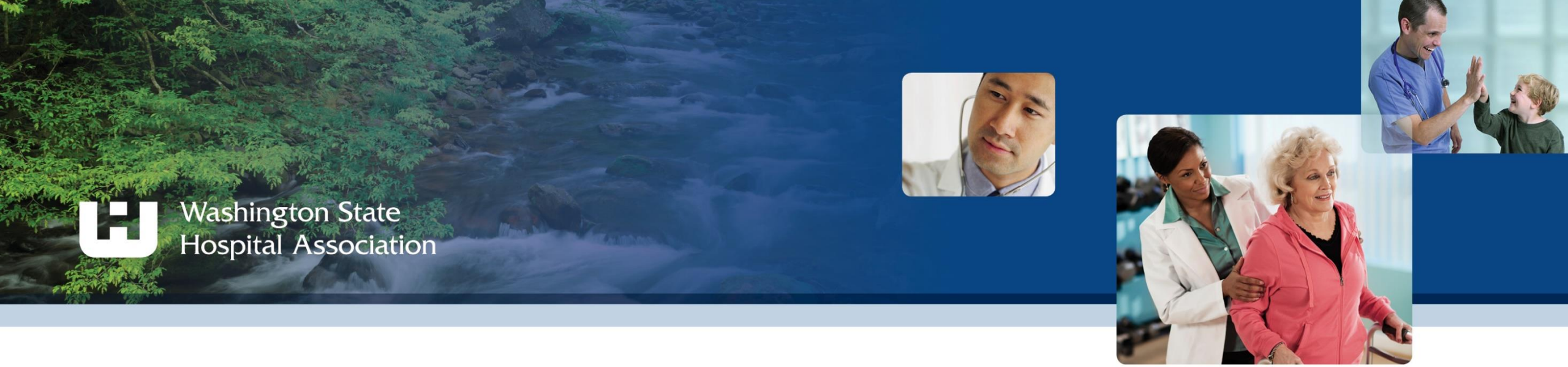


Updates: Financial Assistance, Transparency and Surprise Billing

Andrew Busz, Policy Director, Finance

HFMA

March 16, 2023

Today's Presenter

Andrew Busz
Policy Director, Finance
Government Affairs, WSHA

What is WSHA?

A Professional Trade Association that includes all hospitals in the state as members

- Government Affairs/ Federal and State Advocacy
- Quality and Safety
- Data Analytics
- Washington Health Services (Worker's Comp and Unemployment Insurance Services)

2023 Legislative Session Update: Policy Bills and Budget Priorities

SB 5236 – Hospital Staffing – Passed Senate

- Agreement negotiated between unions, legislators and WSHA
- No rigid ratios, but greater focus on reporting and compliance with staffing plans
- Hospitals out of compliance more than 20% of the time will be subject to corrective action by L&I
- Creates a state-level advisory committee on hospital staffing
- More details forthcoming

SB 5293 – Provider Contracting – Did Not Pass Senate

- Based on NASHP model law and Sutter case
- Assumes hospitals and health systems have too much contracting leverage compared to insurers and is primary driver of cost
- Prohibitions on contracts with multiple facilities or negotiated tier assignments
- WSHA concerns:
  - Impact on continuity and access to care
  - Value-based arrangements
  - Vulnerable hospitals and communities

HB 1508 – Affordability through Health Care Cost Transparency Board – Passed House

- Gives HCCTB authority to fine hospitals if aggregate expenditures exceed benchmark established by the Board
- Concerns:
  - Focus of HCCTB on “cost drivers” as payments by purchasers. Little focus on factors impacting the cost of providing health care
  - Benchmark rates set by HCCTB do not adequately reflect inflation, increased labor costs, changes to patient morbidity and or other factors impacting cost

SB 5241 – Health Care Transactions – Did not Pass Senate

- Bill is product of concerns that hospitals mergers and affiliations are impacting access to specific services.
- Bill would have created a new process that would significantly restrict new affiliations.

SB 5103 – Payment to Hospitals for Difficult to Discharge Patients – Passed Senate

- Applies to patients that no longer need inpatient care but cannot be placed in a skilled nursing or other facility due to capacity or patient complexity issues.
- Quantifies magnitude of the issue and impact to hospitals
- Provision to increase administrative day rate to $700 per day for Medicaid patients was removed in Ways and Means
- Allows separate payment for surgeries and other services that would not be provided in a post-acute setting
- Also requires standardization of how Medicaid managed care organizations handle administrative days

The Hospital Safety Net Assessment Program (SNAP)

- **Goal: Increase Payment for Hospital Medicaid Services**

  Most hospitals have not had a Medicaid rate increase in 20+ years.

  Aggregate shortfall of about $2 billion/year.
- Need to replace existing SNAP program to comply with new federal regulations
- **No additional state funds required, fully funded through assessments on hospitals and federal match**
- Requesting bill passage to reduce Medicaid shortfall

Protect Patient Safety & Access Legislative Package

Retain nurses working in Washington hospitals

- Establish a statewide collaborative to investigate and spread innovations in hospital staffing
- Reinforce Washington's model nurse staffing law

Attract already trained nurses to work in Washington hospitals

- Make Washington a destination state through hospital-based nurse student loan repayment assistance
- Join the Nurse Licensure Compact to ease moving to Washington
- Require traveler agency transparency

Add new nurses through workforce development

- Continue the Washington State Nursing Preceptorship Incentive Program (WSNPG)
- Develop a digital communications platform to connect nursing schools and clinical placement partners
- Standardize clinical placement hours across educational institutions

Additional Resources at WSHA.ORG

WSHA Fiscal Watch

WSHA Inside Olympia

WSHA Bulletins

WSHA New Law Implementation Guide

WSHA Regulatory Updates and Rule Tracker

Update: SHB 1616 (2022) – Financial Assistance

Washington State Hospital Association

WSHA's Advocacy

- Negotiated two-tiered discount system to reduce impact of charity care expansion to small, rural, and independent hospitals
- Removed charity care expansion to affiliated clinics
- Allowed patient asset consideration to reduce discounts
- Clarified that charity care is only available for patients who have exhausted third party coverage

Important Change

Washington State Hospital Association

Expansion of charity care eligibility—2 hospital tiers

Previous law: Same free and discounted care requirements apply to all hospitals licensed in Washington State

Change: Hospitals grouped into one of two tiers and each tier has specific requirements for free and discounted care

Impact: Hospitals must comply with free and discounted care requirements for appropriate tier

Note: Hospitals may still choose to be more generous than the mandatory requirements

Important Change

Washington State Hospital Association

Expansion of charity care eligibility and new groupings

Tier 1: **Hospitals owned or operated by a health system that owns or operates 3 or more acute care hospitals and larger independent hospitals**	**Tier 2:** **All hospitals not in tier 1 (independent and small hospitals and behavioral health hospitals not owned by a system)**
Patients who are:	Patients who are:
0-300% FPL - Free care	0-200% FPL – Free care
301-350% FPL – 75% discount*	201-250% FPL – 75% discount*
351-400% FPL – 50% discount*	251-300% FPL – 50% discount*

Financial assistance applies to the patient responsibility portion of the bill.

* To indicate discount may reduced based on asset consideration (optional for hospitals)

Important Change

Washington State Hospital Association

Identifying Patients Eligible for Medicaid and the Washington State Health Benefit Exchange

Hospitals must:

- Adopt procedures to identify patients and guarantors eligible for medical assistance programs under Medicaid or the Washington State health benefit exchange
- Assist the patient/guarantor in applying for available coverage

Hospitals may:

- Choose not to provide charity care to any patient/guarantor that is eligible for retroactive Medicaid coverage and does not make reasonable efforts to cooperate with the hospital in the Medicaid application process

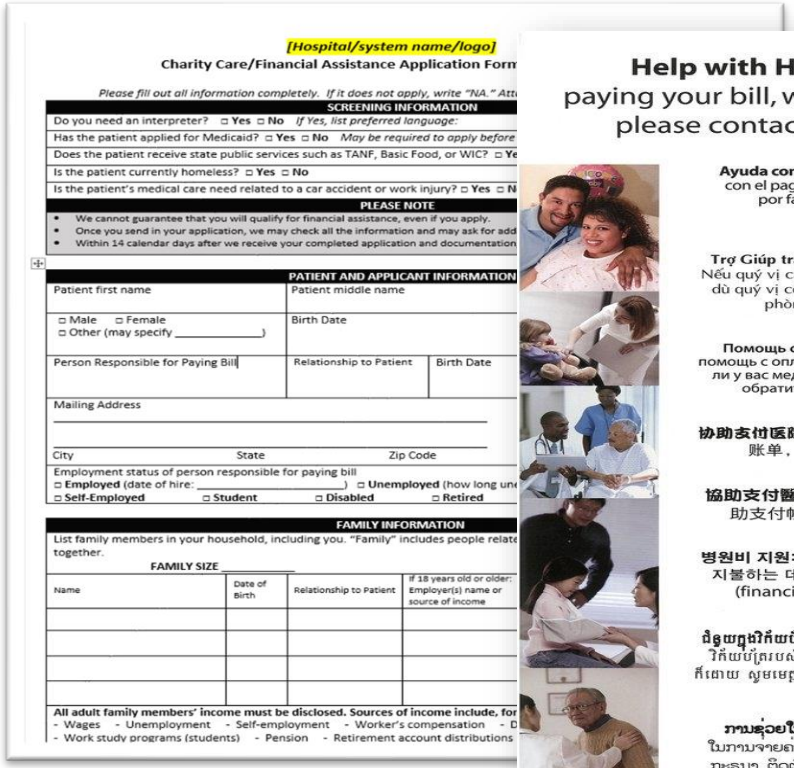
Hospitals may not:

- Impose procedures that place an unreasonable burden on the patient/guarantor.

Washington State Hospital Association

WSHA Resources to Help with Charity Care Compliance

- https://www.wsha.org/for-patients/financial-assistance/washingtons-charity-care-law/
- Standard charity care application and communication plan
- Model policy language
- Model signage
- Training resources



[Hospital/system name/logo]

Charity Care/Financial Assistance Application Form

Please fill out all information completely. If it does not apply, write "NA." Att

SCREENING INFORMATION

Do you need an interpreter? □ Yes □ No *If Yes, list preferred language:*

Has the patient applied for Medicaid? □ Yes □ No *May be required to apply before*

Does the patient receive state public services such as TANF, Basic Food, or WIC? □ Ye

Is the patient currently homeless? □ Yes □ No

Is the patient's medical care need related to a car accident or work injury? □ Yes □ N

PLEASE NOTE

- We cannot guarantee that you will qualify for financial assistance, even if you apply.
- Once you send in your application, we may check all the information and may ask for add
- Within 14 calendar days after we receive your completed application and documentation

PATIENT AND APPLICANT INFORMATION

Patient first name	Patient middle name	
□ Male □ Female □ Other (may specify _____)	Birth Date	
Person Responsible for Paying Bill	Relationship to Patient	Birth Date
Mailing Address		
City State Zip Code		

Employment status of person responsible for paying bill

□ **Employed** (date of hire: _____) □ **Unemployed** (how long un

□ **Self-Employed** □ **Student** □ **Disabled** □ **Retired**

FAMILY INFORMATION

List family members in your household, including you. "Family" includes people relate together.

FAMILY SIZE _____

Name	Date of Birth	Relationship to Patient	If 18 years old or older: Employer(s) name or source of income

All adult family members' income must be disclosed. Sources of income include, for

- Wages - Unemployment - Self-employment - Worker's compensation - D
- Work study programs (students) - Pension - Retirement account distributions

Help with Hospital Bills: If you need help paying your bill, whether or not you have insurance, please contact our financial assistance office.

Ayuda con las cuentas de hospital: Si necesita ayuda con el pago de su cuenta, aunque tenga seguro o no, por favor póngase en contacto con nuestra oficina de ayuda financiera.

Trợ Giúp trả tiền cho những Hóa Đơn của Bệnh Viện: Nếu quý vị cần giúp trả tiền cho hóa đơn của quý vị, cho dù quý vị có bảo hiểm hay không, xin liên lạc với văn phòng trợ giúp tài chánh của chúng tôi.

Помощь со счетами из больницы: Если вам нужна помощь с оплатой вашего счета (независимо от того, есть ли у вас медицинская страховка или нет), пожалуйста, обратитесь в наш отдел финансовой помощи.

协助支付医院账单: 不论您有无保险，若需要协助支付账单，请与我们的财务资助办公室联系。

協助支付醫院帳單: 無論您是否有保險，若需要協助支付帳單，請與我們的財務資助處聯絡。

병원비 지원: 건강보험 소유 여부에 관계 없이 병원비를 지불하는 데 도움이 필요하신 분은 저희 재무 원조실 (financial assistance office)로 연락하십시오.

ជំនួយក្នុងវិក័យប័ត្រនៃមន្ទីរពេទ្យ: បើសិនជាអ្នកត្រូវការជំនួយក្នុងការបង់វិក័យប័ត្ររបស់អ្នក ទោះជាអ្នកមានឬគ្មានការធានារ៉ាប់រងថ្នែកពេទ្យក៏ដោយ សូមទេ្តាទាក់ទងមកការិយាល័យជំនួយថ្នែកហិរញ្ញវត្ថុរបស់យើង។

ການຊ່ວຍໃນການຈ່າຍຄ່າໂຮງໝໍ: ຖ້າທ່ານຕ້ອງການໃຫ້ຊ່ວຍໃນການຈ່າຍຄ່າໝໍຂອງທ່ານ, ເຖິງແມ່ນວ່າທ່ານຈະມີປະກັນໄພຫຼືບໍ່, ກະລຸນາ ຕິດຕໍ່ຫາຫ້ອງການຊ່ວຍເຫຼືອຝ່າຍການເງິນຂອງພວກເຮົາ.

Update: Federal Transparency Law

Transparency Requirements (Effective January 1, 2021)

- Machine readable file of standard and negotiated rates for nearly all services and payors
- Consumer-friendly “shoppable services”

- Mechanism for CMS to monitor and enforce
  - Warning letters
  - Corrective action plans
  - Civil monetary penalties

Transparency Requirements (Effective January 1, 2021)

- Interested parties are seeking to compel HHS to release names of all hospitals that have received warning letters
- HHS has released the number of warning notices (about 500) and requests for corrective action plans (230) but no names
- US Office of the Inspector General (OIG) recently released workplan that includes oversight and monitoring of hospital compliance

Transparency Requirements (Effective January 1, 2021)

Various organizations are publishing their own scorecards on hospital compliance of the federal transparency law based on their own proprietary algorithms and are getting lots of attention from media and policymakers. They include:

- https://www.patientrightsadvocate.org/state-by-state-hospital-compliance
- https://turquoise.health/mrf_transparency_score

Transparency Requirements (Effective January 1, 2021)

CMS is officially the sole determiner and enforcer of compliance, but hospitals may want to review their scorecards and see if there are omitted elements that can be updated, such as:

- Full range of negotiated services
- Full range of negotiated payors/including specific products
- Alignment of rates between machine readable file and shoppable services

Hospitals should also be prepared to respond to media and/or policymakers regarding their compliance.

Transparency Requirements (Effective January 1, 2021)

What's Next?

CMS will likely provide and require more rigid standardization of reporting going forward. See CMS comments in Health Affairs Blog

A recent KFF study indicated many reports of noncompliance are likely result of variation in how data is reported

- *"These challenges do not result necessarily from lack of compliance with the rule; rather, these findings highlight its shortcomings in facilitating price comparisons. The complexity of using the data is largely due to a lack of standardization and specification in the reporting requirements."*

Update: Balance Billing Protection Act and No Surprises Act

Original Balance Billing Protection Act (BBPA)

- Applies to state-regulated insurance (individual and small group, PEBB and SEBB).
- ERISA self-funded groups can voluntarily opt-in
- Balance billing prohibition applies to:
  - Emergency services
  - Out of network services provided at an in-network hospital or facility
- “Commercially reasonable” payment standard
- State administered arbitration dispute resolution process
- Standard notice of consumer rights

No Surprise Act (NSA)

- Applies to nearly all insurance other than Medicare and Medicaid (including ERISA groups)
- Balance billing prohibition applies to:
  - Emergency services
  - Out of network services provided at an in-network hospital or facility
  - Air ambulance
- “Insurer’s own median rate” payment standard
- Federally administered arbitration dispute resolution process
- Numerous new notification requirements (Good faith estimate, advanced EOB, etc.)

House Bill 1688 (2022)

- Reconciles conflicting provisions of BBPA and NSA
- Extends BBPA dispute resolution through June 2023, may be extended at the discretion of the Insurance Commissioner. BBPA supersedes NSA where there is overlap. BBPA arbitration extended through 12/31/2023.
- Aligns definition of emergency with NSA to include post-stabilization services
- Aligns NSA and BBPA arbitration language, but still separate processes
- Extends balance billing protections to crisis and emergency behavioral health services and providers

NSA Notification Requirements

- Good faith estimates for all uninsured and self pay patients
  - Required if service scheduled 3 or more days in advance
  - Patient can dispute if charges are >$400 more than the estimate
  - Coming: combined GFE (including surgeon, facility, anesthesiologist, etc.) responsible of convening provider

- Advanced Explanation of Benefits requirement for insured patients
  - Insurers will provide estimate of payments to patient based on providers' estimates of charges
  - CMS requesting input on process

NSA Independent Dispute Resolution Process

- A new online portal has been established for parties to submit disputes
- Despite successful Texas lawsuit, insurer's calculation of median payment still heavily weighted by arbitrators
- Demand for arbitration currently exceeding capacity with some arbitrator entities no longer accepting new cases
- The Texas federal court struck down the revised rule, determining it still gave too much presumption to the insurers' proposed rate. CMS has instructed arbitrators to resume arbitrations for services before October 25, 2022, the date of the first court ruling disallowing the arbitration criteria.

Additional Resources at WSHA.ORG

WSHA Fiscal Watch

WSHA Bulletins

WSHA New Law Implementation Guide

WSHA Regulatory Updates and Rule Tracker

Also, see resources from AHA (NSA implementation guide) and PYA (free on-demand webinars and guides on NSA and transparency)

Washington State Hospital Association

Contact Information

Andrew Busz, FAHM

Policy Director, Finance

andrewb@wsha.org

How Will You Score?
AG Compliance Checklist

New Patient Billing Regulations Target Providers

& Partners

Judy I. Veazie, CRCE, CCT
Wolters-Kluwer
judyvpress@gmail.com
425.246.7686

PARTNER OR PREDATOR ?

Partnership Management :

Provider-Vendor Relationships

The Way Patients Perceive the Provider/Partner Partnership

AG Responding to Patient Fears:

"Providers & Their Patient Billing/Collection Partners Prey on Patients"

Regulators/AG Allegation Target:

"PATIENTS ARE CAUGHT IN THE PROFIT TRAP WHEN PROVIDERS FAIL TO MANAGE THEIR VENDOR PARTNER RELATIONSHIPS WITH COMPLIANT OVERSIGHT."

Provider Compliance Goal:
Improve Consumer Confidence

Patients Benefit When Providers Manage Their Vendor Relationships

Be Prepared to Prove You Performed Due Diligence

Management Oversight


ARE
YOU
READY
iStock
by Getty Images
819775756

Use your Lifelines: Compliance Toolkits

- **Dispute Resolution**
- Trending Analysis
- Vendor Onboarding
- Training
- Reconciliation
- Audit

Compliance Toolkit—Dispute Resolution

Testing: Plan for Dispute Resolution

Develop a comprehensive Dispute Resolution Process—INCLUDE ALL

Providers & Vendor- Partner Stakeholders

CEO/CFO

Compliance Officers

Patient Billing Service

Collections Partners

Aligned Staff

Patient Dispute?
STOP Collections

87% of consumers were surprised by a medical bill in 2021

Be prepared to STOP
the Billing Process
at any point….
even until final legal judgment

Compliance Toolkits—Part 2 –*Afternoon Session*

BE PREPARED:

Expand all to cover all the Compliance Toolkits.

- Dispute Resolution
- Trending Analysis
- Vendor Onboarding
- Training
- Reconciliation
- Audit