



## Protecting and Strengthening the Hospital Safety Net

### What's the need?

Under today's health care system, a growing number of people cannot access adequate health care, nor can they afford to pay for the care they receive. For these individuals, the lack of access to comprehensive care and the constant threat of medical debt pose significant barriers to both their medical and financial wellbeing. Community monitoring and research show that people delay or avoid care if they expect to be charged beyond what they can afford. In such instances, serious illnesses are diagnosed too late, when treatment is less likely to succeed.

National health care reform will help. We know, however, that reform will not cover everyone. And questions remain about the strength of the affordability protections and minimum benefits packages in both House and Senate bills. Many of these reforms will take time to implement and will not be available immediately.

Strengthening hospital free care and community benefits programs is one key way to meet these and other unaddressed needs. In many communities, these programs are the only lifeline people have to access needed health services without accruing medical debt.

### What safety net services are hospitals required to provide?

Federal law requires hospitals to treat patients with medical emergencies, but it does not prohibit hospitals from billing for the care provided.

Tax-exempt hospitals (nonprofits) are also required to provide community benefits, although this responsibility is not clearly defined in federal law or in many states' laws. Generally, community benefits policy sees a broader responsibility for hospitals than their core duty of delivering medical services to individuals. It deems hospitals responsible for engaging their communities in meeting fundamental underlying needs that would otherwise go unaddressed,<sup>1</sup> such as access to free care, health promotion and disease prevention.

Two other factors also obligate hospitals to address community needs:

- **Accountability for public dollars and other earmarked funds.** Many hospitals receive reimbursements for providing uncompensated care. This includes public funds for hospitals serving disproportionately large numbers of Medicaid and Medicare beneficiaries and low-income uninsured patients (Disproportionate Share Hospital [DSH] funds); Medicare funds for teaching hospitals to train new

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<sup>1</sup> See Mark Schlesinger & Bradford Gray, *A Broader Vision for Managed Care, Part I: Measuring the Benefit to Communities*, Health Affairs (May/June 1998) at 153-154.

physicians; and private donations specifically for free care. Hospitals receiving these funds should be obligated to provide free care to those in need.

- **Ethical and corporate social responsibilities.** There is also an informal obligation for all hospitals to address pressing community health needs. In some instances, hospitals have assumed this responsibility by providing free care and other community benefits to disadvantaged patients.

## **Common problems accessing safety-net care**

Community members often have trouble obtaining hospital safety-net services, getting information about hospital policies, or weighing in as hospitals establish their priorities. Part of the problem is that federal standards are ill-defined, and state laws range greatly in their requirements. Many hospitals have created their own policies with little or no oversight from state or federal regulators and with little to no input from their communities. Others, quite simply, are not pulling their weight. Many hospitals miss opportunities to devote scarce resources to vital community needs because of ambiguous policies.

Lack of oversight of free care programs has led to a host of unethical behaviors, such as requiring cash deposits or payments from patients before they are treated, failing to notify patients that free care programs exist, redirecting uninsured patients to other hospitals, grossly overcharging self-pay patients up to four times the cost of care, and using aggressive practices such as liens and wage garnishment to collect debts.

## **Will national health care reform help?**

Although neither the House nor the Senate bill sets firm standards for hospitals on community benefits and free care, both bills contain provisions that could improve access to care for vulnerable populations. Highlights include:

- Increased transparency in hospital billing and notification of free care policies
- Requirement that tax-exempt hospitals conduct community-needs assessments with input from their communities (Senate only)
- Public notification about financial assistance policies
- Limits on billing and egregious debt-collection practices for people qualified for financial assistance (Senate only)

Additionally, the House bill calls for greater scrutiny of DSH payments. Both bills also significantly cut federal DSH funding, assuming that increased insurance coverage will reduce the need for free care. Unfortunately, this may further impede access to care for people who remain uninsured.

## **What can advocates do?**

There are opportunities to defend and strengthen hospital safety-net services at the federal, state and local levels.

## Federal

- When the health care reform bills go to a Congressional conference committee, press House and Senate leadership to maintain and strengthen requirements for hospitals to provide free care and community benefits. Specifically, advocate for:
  - Extending requirements to all hospitals, not just nonprofits
  - Extend fair-billing and debt-collection rules to all patients
  - Clearly define what counts as free care
  - Include any medically necessary service in the free care definition
- Partner with safety-net providers to protect funding (such as Medicaid DSH money) for vulnerable populations and to set conditions for hospitals receiving those funds
- If the requirements become law, urge the Obama administration to issue regulations that set even stronger guidelines; for example, by setting firm standards on free care eligibility, or by applying hospital billing and debt collection protections to *all* consumers, not just those who qualify for a hospital's policy

## State

- Advocate for state laws that go beyond federal law to set stronger standards for hospital free care and community benefits and that increase accountability in the ways states distribute DSH funds
- Organize or connect with state efforts to monitor hospital compliance
- Monitor use of free care to help prove the continuing need

## Local

- Build alliances with providers to push for stronger affordability standards and consumer protections to avoid uninsurance or underinsurance
- Gather consumer stories to demonstrate the continued need for safety-net services
- Get involved in hospital community-needs assessments
- Monitor hospitals for compliance with new and existing requirements
- Raise community awareness of free or reduced-cost hospital services
- Use data from the new reporting requirements for private tax-exempt hospitals found in Form 990, Schedule H to establish a baseline for hospital performance and best practices on free care and community benefits

## Resources

Please visit the Community Catalyst website at <http://www.communitycatalyst.org/projects/hap/> for additional resources, including:

- Health Care Community Benefits: A Compendium of State Laws
- Map It: Free Care Compendium (Interactive Map of State Laws)
- Hospital Free Care Web Tool (Interactive Build-A-Bill Tool)
- Community Benefits Model Act and Commentary
- Free Care Monitoring Project Guide and Toolkit
- Summary of Form 990, Schedule H Reforms (Brief for Advocates)