Best Kept Secrets:

Are Non-Profit Hospitals Informing Patients About Charity Care Programs?

May 2010

Carol Pryor
Mark Rukavina
Alex Hoffman
Aaron Lee

The Access Project
30 Winter Street, 7th Floor
Boston, MA 02108

Phone: 617.654.9911

www.accessproject.org

Community Catalyst
30 Winter Street, 10th Floor
Boston, MA 02108

Phone: 617.338.6035
Fax: 617.451.5838

www.communitycatalyst.org

Table of Contents

About The Access Project

The Access Project (TAP) has served as a resource center for local communities working to improve health and health care access since 1998. The mission of TAP is to strengthen community action, promote social change, and improve health, especially for those who are most vulnerable. TAP conducts community action research in partnership with local leaders to improve the quality of relevant information needed to change the health system. TAP's fiscal sponsor is Third Sector New England, a non-profit with more than 40 years of experience in public and community health projects. TAP is affiliated with the Heller School for Social Policy and Management at Brandeis University.

TAP is nationally recognized for its groundbreaking work on the financial burden of health costs and medical debt on individuals and families. TAP's **Medical Debt Resolution Program** has provided direct assistance to families with unaffordable medical bills that has resulted in the elimination of millions of dollars of debt. It has also conducted extensive research and published policy reports and articles that have informed policy discussions on medical debt, hospital billing and collection issues and the adequacy of health insurance coverage. www.accessproject.org

About Community Catalyst

Community Catalyst is a national non-profit advocacy organization dedicated to making quality, affordable health care accessible to everyone. Since 1997, Community Catalyst has worked to build consumer and community leadership to transform the American health system. With the belief that this transformation will happen when consumers are fully engaged and have an organized voice, Community Catalyst works in partnership with national, state and local consumer organizations, policymakers and foundations, providing leadership and support to change the health care system so it serves everyone—especially vulnerable members of society.

Community Catalyst's **Hospital Accountability Project** works with advocates across the country to implement state and local hospital practices that regularly involve the community in health planning, protect families from financial devastation due to medical debt, and allow the uninsured and underinsured to seek and receive needed health care services. We also work nationally to promote public policies that set clear community benefit and financial assistance standards for hospitals. www.communitycatalyst.org

About Our Collaboration

In 2010, The Access Project and Community Catalyst entered into a collaboration to explore new initiatives regarding medical debt, hospital charity care and issues related to billing and collection. This report is the first resulting from our new collaboration.

Executive Summary

Free (or charity) care refers to "free or discounted health services provided to persons who meet a [health care] organization's criteria for financial assistance and are thereby deemed unable to pay for all or a portion of services." Non-profit hospitals have a special obligation to provide charity care because, as charitable institutions, they receive valuable federal, state and local tax exemptions. In exchange they are expected to provide community benefits, including free or discounted care for patients in need.

In a country in which more than four in 10 residents struggle to pay medical bills, hospital charity care remains an important part of the health care safety net. The passage of a national health care reform law will not eliminate the need for charity care: in a weak economy, more people will become unemployed and uninsured; many components of the national law will not go into effect for several years; and even after reform is implemented, many people may find out-of-pocket health care costs difficult to afford.

For nearly a decade, researchers, the government and the media have documented the failure of many hospitals to inform patients about their financial assistance programs and provide adequate help to those in need. In response, a number of states have passed legislation setting standards for the provision of charity care, Congress has held hearings on the issue, and lawsuits have been filed in state and federal courts. In addition, the recently passed national health care reform law imposes new requirements on non-profit hospitals. Under the new law, non-profit hospitals must establish written financial assistance policies that clearly specify eligibility criteria and widely publicize these policies. The law also prohibits hospitals from taking "extraordinary" collection actions before making a "reasonable effort" to determine if patients are eligible for financial assistance.

In response to the ongoing problems with charity care practices, the American Hospital Association (AHA) has consistently maintained that mandatory requirements are unnecessary. In 2003, AHA issued voluntary guidelines regarding hospital billing and collection practices for the uninsured and underinsured. In 2005, AHA claimed that almost all of its members had agreed to follow the guidelines. In 2010, it opposed the inclusion of any requirements in the national health care legislation.

To determine the effectiveness of these voluntary guidelines, The Access Project conducted a survey of 99 randomly selected non-profit hospitals in the summer of 2009. Researchers searched the hospital websites and made up to three telephone calls to hospital representatives to verify that the hospitals were complying with the following AHA guidelines:

- Make available to the public information on hospital-based charity care policies and other known programs of financial assistance.
- Communicate this information to patients in a way that is easy to understand, culturally appropriate, and in the most prevalent languages used in their communities.
- Have understandable written policies to help patients determine if they qualify for public assistance programs or hospital-based assistance programs.

Key Findings

Through a review of 99 hospitals' websites or phone calls to hospital representatives (or both), surveyors found that:

- 85 hospitals mentioned the availability of charity care.
- Fewer than half of these (42) provided application forms.
- Only about a quarter of the hospitals (26) provided information about who qualified for charity care.
- Only about a third (34) provided information in a language other than English.

Recommendations

These findings indicate that despite the AHA's assurances, voluntary guidelines have not been sufficient to ensure that patients have access to information about hospital charity care programs. Based on these findings, we recommend:

1. The federal government should promptly and rigorously implement the community benefit and charity care transparency requirements in the national health care law.
2. The federal government should widely publicize the data it collects on hospitals' provision of community benefits and charity care, so communities and states can assess the extent to which their hospitals are complying with charity care requirements.
3. States that do not currently have laws and regulations regarding the transparency of charity care policies and practices that exceed the federal requirements should consider enacting them.
4. Legislation and enabling regulations should include a prohibition on sending patients' bills to collection agencies until hospitals have made good faith efforts to ensure that patients are aware of the availability of financial assistance.
5. The federal government and states that have enacted community benefit and charity care laws should conduct regular oversight to ensure that hospitals are complying with their legal requirements.
6. Hospitals should look for opportunities to collaborate with community organizations to ensure that charity care, billing and debt collection policies respond to the needs of the populations they both serve.

Introduction

Free (or charity) care refers to "free or discounted health services provided to persons who meet a [health care] organization's criteria for financial assistance and are thereby deemed unable to pay for all or a portion of services."[1] Because health care is an essential service, all hospitals are expected to offer some level of free or discounted care to patients who are faced with unaffordable medical bills. Moreover, many hospitals receive public funds that indirectly subsidize a significant portion of their uncompensated care. Non-profit hospitals have a special responsibility in this area because, as charitable institutions, they receive valuable federal, state and local tax exemptions. In exchange for these exemptions, they are expected to provide community benefits, including free or discounted care to people in need. The provision of charity care is a core part of non-profit hospitals' charitable missions.

The public believes that hospitals – and especially non-profit hospitals – have obligations to their communities to provide a critical safety net for care. In November 2008, Community Catalyst conducted a survey to learn about people's attitudes towards hospital charity care. Nearly eight in 10 respondents (79 percent) to the survey said that non-profit hospitals have an obligation to provide charity care, and 82 percent said these hospitals have an obligation to work with patients who don't have enough money to pay for care up front and to help them with a financing plan. Ninety percent said that non-profit hospitals should be required to provide information to the public on the free and low-cost programs and services they offer to the community.[2]

However, for nearly a decade, researchers, the government and the media have documented the failure of many hospitals to inform patients about their financial assistance programs and to provide adequate help to those in need.[3] Despite this attention, problems continue. Recently Rep. Bobby Rush (D-IL) learned of a non-profit university medical center in his district that refused care to uninsured and poor patients; this prompted him to join with Sen. Charles Grassley (R-IA) in calling for stronger charity care standards for non-profit hospitals.[4] Elsewhere, tax-exempt hospitals have forced patients without adequate coverage to pay for medical services upfront before agreeing to provide care.[5] Research has also shown wide variation in the levels of charity care that non-profit hospitals provide. A study conducted by the Internal Revenue Service (IRS) in 2009 found that 14 percent of non-profit hospitals accounted for almost two-thirds (63 percent) of aggregate uncompensated hospital care expenditures.[6]

In spite of the problems that have been identified, the American Hospital Association (AHA) has consistently maintained that the imposition of mandatory requirements on non-profit hospitals in exchange for their tax exemptions is unnecessary. In 2003, the organization issued a set of voluntary guidelines for its members regarding billing and collections policies for uninsured and underinsured people, which it insists are sufficient.[7] Most recently, in 2010 the AHA wrote to congressional leadership to request that community benefit and charity care provisions in the recently enacted national health care reform bill be removed from the legislation.[8] These provisions, among other things, require hospitals to publicize their financial assistance policies, limit charges for patients who qualify for financial assistance, and make reasonable efforts to determine if patients are eligible for financial assistance. However, following passage of the law, the AHA's senior vice president and legal counsel said the requirements would not be a problem because tax-exempt hospitals are already doing most of these things.[9]

In the summer of 2009, The Access Project conducted a random survey of 99 non-profit hospitals to measure the effectiveness of the AHA's voluntary guidelines. The survey focused on the AHA guidelines that call on hospitals to have understandable, written policies to help patients determine if they qualify for public programs or charity care and to make information about hospital-based charity care policies and other programs of hospital financial assistance known to the public. This report presents the findings of the survey.

The Importance of Hospital Charity Care

Hospital charity care (free or discounted care provided to people in need) is an important part of the health care safety net for low- and moderate-income consumers. In 2008, the AHA reported that hospitals provided $36.4 billion worth of uncompensated care, which includes both charity care and bad debt.[10] (Charity care is care for which hospitals do not expect reimbursement while bad debt results from care for which reimbursement is sought but not obtained.) This amount represents hospital costs that consumers were unable to afford.

Jean-Marc, of Miami, Florida, took his seven-year-old daughter to the emergency room when she was unable to breathe because of asthma. He said, "I was never told about financial assistance and, had I known they offered this, I would have asked about it." A few days later he started getting bills totaling $1,300 for the 35-minute visit. He told the hospital and doctor that he was unemployed and unable to pay the bills, but they said he had to pay in full or they would send the bills to collections. Fortunately, a teacher at a community center where he was studying told him about a community organization that might be able to help him. With its assistance, he learned that his daughter was eligible for a health card that would cover the cost of the visit. He said, "I feel relieved because we don't have the stress of the medical bills anymore."

Hospitals often consider charity care and bad debt together as a benefit they provide to their communities. However for consumers, the difference between the two matters greatly. Those consumers who are made aware of and qualify for financial assistance are able to receive health care without undermining their families' financial stability. Those who are unaware of these programs and/or fail to qualify for them may be significantly harmed. According to a Commonwealth Fund survey, in 2007 more than one in six people (16 percent) were contacted by a collection agency because of unpaid medical bills.[11] These debts frequently end up on people's credit reports, negatively affecting their ability to get credit, for example to purchase cars or homes.[12]

For many others, paying hospital bills leads to extreme financial hardship. The Commonwealth Fund found that between 2005 and 2007, the proportion of working-age adults who struggled to pay medical bills and accumulated medical debt climbed from 34 percent to 41 percent. Because of medical bills or accumulated medical debt, an estimated 28 million adults reported they used up all their savings, 21 million incurred large credit card debt, and another 21 million were unable to pay for basic necessities.[13]

Even though Congress has now passed a national health care reform law, the need for charity care will not disappear. In a weak economy, more people will become unemployed and/or uninsured, while those who maintain their employment and insurance can expect to pay an increasing proportion of the costs through higher deductibles and co-payments.[14] In addition, key components of the law will not take effect for at least four years; these include the provision of subsidies to help people purchase health insurance and the prohibition on insurers denying coverage to people with pre-existing conditions. Moreover, not all low- and middle-income

people will be eligible for subsidies (such as those who receive insurance through their employers) and, even with minimum insurance standards, some may find deductibles and other out-of-pocket costs unaffordable. This may be especially true for people with low incomes and those with chronic conditions who require frequent and ongoing care. For these reasons, it is important to be sure that non-profit hospitals are fulfilling their mission to provide charity care to people in need.

Hospital Charity Care Practices

Issues related to hospitals' provision of charity care first became widely known in March 2003, when *The Wall Street Journal* published a front page story about a man whose wife had received care twenty years earlier at Yale-New Haven Hospital, which left him heavily in debt.[15] Although he had been making payments faithfully on the bill since that time, his debt kept growing because of interest payments the hospital charged on the debt. Around the same time, a report revealed that in spite of having access to over $35 million in "free bed funds" to support charity care for the uninsured, the hospital was billing many low-income people who should have been eligible for assistance, and then aggressively pursuing these patients for payment. Collection tactics included wage garnishments, bank executions, liens and foreclosure of homes.[16]

Some hospitals have developed more consumer-friendly free care policies and procedures. For example, a recent report on the financial assistance policies of North Carolina hospitals recognized the Novant Health hospital system both for posting charity care policies on its web site and for offering discounts greater than what would be required by the Living Income Standard in North Carolina. At Novant hospitals, any uninsured patient with an income less than 300 percent of the federal poverty level ($66,150 for a family of four) qualifies for a 100 percent discount on hospital bills.[24]

Along with shining a light on the aggressive billing and collection practices of some hospitals, researchers and the media also began to report on another aspect of hospital billing that was not generally known outside of the health care industry – the fact that the uninsured, because they do not have access to the discounts negotiated by private insurers and government payers, are often expected to pay two or three times more than the insured for the same services.[17] As a result of these pricing practices, those with the fewest resources are often expected to pay the most for health care services.

Over the last decade, these pricing and collection practices became the focus of congressional and state investigations, lawsuits filed in federal and state courts, and state laws and regulations. In 2004, the House Energy and Commerce Subcommittee on Oversight and Investigations held hearings on discriminatory hospital pricing for the uninsured. Attorneys general in Illinois[18] and Minnesota[19] investigated non-profit hospitals and concluded they were not complying with their missions to provide charity care. A county in Illinois revoked one hospital's tax exemption on the grounds that its aggressive collection practices were not consistent with its charitable mission.[20] Some of the hospital billing and collection practices that have come to light in these states and elsewhere include:

- Failing to screen patients for eligibility for public programs or hospitals' own financial assistance programs[21]
- Failing to notify patients of the availability of these programs, and even denying that they offer charity care[22]
- Charging self-pay patients, on average, three times more for services than the amounts charged to patients with private insurance or covered by public programs[23]

- Requiring significant up-front payments before providing treatment[25]
- Encouraging people to pay for medical care with credit cards, which increases costs because of high interest and late-fee charges
- Mounting extremely aggressive collection practices, including placing liens on patients' property or garnishing their wages
- Sending patients' bills to collections before insurance disputes are settled
- Selling off patient accounts to third-party lenders that charge exorbitant interest rates[26]

As a result of these investigations and findings, a number of states passed legislation setting standards for the provision of hospital charity care. California, for example, requires general acute hospitals to provide discounted care to financially qualified patients as a condition of licensure. The law also requires them to have written financial assistance policies and to notify patients of the availability of financial assistance. Hospitals must file their policies with the Office of Statewide Health Planning and Development (OSHPD). OSHPD, in turn, is required to make these policies available to the public.[27] Maryland requires hospitals to have free and reduced-cost care policies with specified eligibility criteria and to develop detailed information sheets notifying patients of their rights, obligations and available assistance. Maryland hospitals are also required to ensure the availability of trained hospital staff members to help patients understand all matters relating to their hospital bill.[28] Other states have developed comprehensive requirements surrounding the provision of charity care as well.[29] However, as recent articles and the IRS investigation showed, many hospitals have still not improved their practices.

As mentioned previously, the recently passed national health care reform law imposes new requirements relating to non-profit hospitals' provision of community benefits. These include requiring these hospitals to establish written financial assistance policies that clearly specify eligibility criteria, widely publicize these policies, limit hospital charges for medically necessary care for people who qualify for financial assistance, and prohibit "extraordinary" collection actions before making a "reasonable effort" to determine whether patients qualify for financial assistance. The law also requires the federal government to report regularly on the costs hospitals incur from bad debt and charity care.[30]

The AHA Response: Voluntary Standards

In response to the first round of negative publicity around hospital billing and collection practices, in 2003 the AHA issued a statement of principles and guidelines about hospital billing and collections practices.[31] Among other things, the statement called on hospitals to:

- Provide financial counseling to needy patients
- Have understandable, written policies to help patients determine if they qualify for public programs or charity care
- Make information about hospital-based charity care policies and other programs of financial assistance available to the public
- Communicate this information to patients in a way that is easy to understand, culturally appropriate, and in the most prevalent languages used in their communities

- Share these policies with appropriate community health and human services agencies and other organizations that assist people in need
- Ensure that staff members who work closely with patients are educated about hospital billing, financial assistance and collection practices
- Ensure that all written policies for assisting low-income patients are applied consistently
- Review all current charges and ensure that charges for services and procedures are reasonably related to both the cost of the service and to meeting all of the community's health care needs
- Make available for review by the public specific information in a meaningful format about what hospitals charge for services

In 2005, the AHA told Congress that mandatory charity care requirements were unnecessary because most of its members had agreed to comply with the voluntary guidelines.[32] The Access Project attempted to verify this claim through a survey of randomly selected hospitals. Despite the guideline that called for hospitals to make information about hospital-based charity care policies and other programs of financial assistance available to the public, and despite repeated phone calls to chief financial officers or patient financial services directors, only 12 hospitals agreed to participate in the survey. With respect to implementation of the AHA's guidelines, hospitals' reported practices varied widely, and no hospitals complied with all of the guidelines.[33] As we have seen, however, the AHA requested the elimination of all charity care and community benefit requirements in the 2010 national health care reform legislation and continues to oppose the imposition of mandatory requirements on non-profit hospitals.[34]

The goal of The Access Project's recent survey of non-profit hospitals was to determine whether hospitals have improved their voluntarily compliance with the AHA's guidelines since 2005.

What is a Charity Care Policy?

Both the AHA guidelines and the national health care reform law call for non-profit hospitals to develop charity care policies and disseminate them to the public. However, neither fully defines what a true charity care policy should include. The national law says that a financial assistance policy should include eligibility criteria, whether assistance includes free or discounted care, and the method for applying for financial assistance. The AHA guidelines say that hospitals should have written policies to "help patients determine if they qualify for public assistance programs and hospital-based assistance programs," and that hospitals should also ensure that policies for assisting low-income patients are "consistently applied."

In our review of the information we obtained from hospitals in the survey, we found that even a requirement as apparently straight-forward as providing charity care eligibility criteria was interpreted in widely different ways. Some hospitals provided clear tables showing the amount of assistance people at different income levels could expect to receive. Others were much less specific. The website of one hospital said only that it "may reduce a patient's bill by 25 percent, 50 percent, 75 percent, or 100 percent based on financial need." Another hospital merely said, "In general, if your income is at the federal poverty guidelines, you are more likely to receive assistance," and that "partial assistance may be granted using a percentage of the Federal Poverty Scale." A third hospital's brochure on payment

assistance options said that discounts were available for uninsured patients with incomes not exceeding $250,000, but provided no other details. A relatively common approach was for hospitals to state that patients with incomes below a specified percentage of the federal poverty level were eligible for free care, and that patients with somewhat higher incomes were eligible for discounts, without specifying the amounts of the discounts.

Aside from the eligibility criteria and amount of the discounts provided, the process hospitals follow to inform patients about charity care is of great importance to consumers. Potentially eligible patients cannot apply for charity care unless they know that financial assistance programs are available, and they must have this information *before* hospitals ask them to pay for care. Otherwise, hospitals can first attempt to get patients who may be eligible for assistance to pay for care, including by incurring credit card debt or taking out loans, and only tell them about the availability of assistance if the attempt to gain payment is unsuccessful. This tactic can harm patients financially; it may also cause them to delay medically necessary care. Disseminating the eligibility criteria for charity care, the amount of assistance offered, and the process by which patients are informed about charity care helps ensure that the qualification process is not arbitrary and that the documentation required to apply for charity care is relevant to the eligibility determination.

Although the process by which hospitals inform patients of the availability of charity care is of great importance, for the purpose of this survey we checked to see only whether hospitals provided eligibility criteria for charity care based on patients' incomes and whether they listed the specific discounts that patients at varying income levels could expect to receive. When a hospital stated that patients with incomes below a specified percentage of the federal poverty level were eligible for free care, we classified it as providing eligibility criteria. If a hospital stated that patients with incomes between certain percentages of the federal poverty level were eligible for discounts, but did not specify the amount of the discounts, we classified it as not providing information about the amount of discounts provided.

The charity care application form for two hospitals in our study asked patients to provide the credit limit for each credit card they had. Another hospital's application form required patients to sign a statement that said in part, "You [the hospital] may verify it [the information provided by the patient] and discuss it with any third party that, in your opinion, might loan, advance or otherwise assist me [the patient] in payment in full or otherwise settling any or all of the just debts." If the eligibility criteria for financial assistance are not clear, the request for this type of information raises questions about whether the hospital is seeking to qualify patients for charity care or whether it is trying to pressure them to incur debt to pay for their bills.

Daisy of Orlando, Florida, for example, needed surgery but did not have insurance coverage. Before the hospital would perform the operation, it said she needed to pay half the amount up front. She said, "I was not told anything about financial assistance... Not knowing what else to do, I gave them my credit card and it was charged $4,000." Because of the bill, she is now months behind in paying her mortgage.

Methodology

To conduct the survey, we randomly selected 100 non-profit hospitals from the 2009 AHA handbook of hospitals. One of the hospitals provided all of its services for free, so we excluded it from our sample. The final sample therefore included 99 non-profit hospitals.

Our goal was to determine whether these hospitals were complying with the AHA billing and collection guidelines about establishing clear charity care policies and widely sharing them with patients and the public. Among the AHA guidelines, the following were most relevant in terms of the focus of the survey:

- Have understandable, written policies to help patients determine if they qualify for public programs or charity care
- Make information about hospital-based charity care policies and other programs of financial assistance available to the public
- Communicate this information to patients in a way that is easy to understand, culturally appropriate, and in the most prevalent languages used in their communities

- Share these policies with appropriate community health and human services agencies and other organizations that assist people in need
- Ensure that all written policies for assisting low-income patients are applied consistently

We used two methods to see if hospitals were following these guidelines: 1) a search of hospitals' websites and 2) telephone calls to each hospital. The research was conducted in the summer of 2009.

Website Searches

On each of the 99 hospitals' websites, we looked for information on charity care. If the website had a search function, we searched for information using eight search terms: financial assistance, financial aid, charity care, charity, discount, uninsured, underinsured, and patient billing.

On each hospital website, we looked for information on:

- The availability of charity care
- Patients' eligibility for charity care based on their income
- The amount of discounts provided based on patients' incomes

We also checked to see if the website contained:

- Contact information so a patient could get more information about charity care
- An application for charity care
- Information about the documentation an applicant had to provide in addition to filling out the application for charity care
- Information about charity care in language(s) other than English

Telephone Inquiries

We called each of the 99 hospitals using either the main hospital phone number or, if the website listed a contact where patients could get more information about charity care, the phone number of that contact. Once we identified the appropriate contact at the hospital, we called up to three times and, if there was no answer, left phone messages inquiring about charity care. If a hospital failed to respond after three calls, we considered the hospital as not providing any telephone information about charity care.

If we did reach someone who could provide information, we told him or her that we worked at an organization that helped people with unaffordable medical bills and wanted to get information about the hospital's charity care program. Based on these conversations, we recorded whether hospital representatives:

- Knew about an existing charity care program
- Explained how to apply for the program
- Knew about the AHA guidelines for billing and collection practices
- Explained information about the income criteria the hospital used to qualify patients for charity care
- Agreed to send information about the income eligibility criteria
  - We also recorded whether we actually received the information

- Agreed to send an application for charity care
  - We also recorded whether we actually received the application
- Specified what information an applicant had to provide in addition to filling out the application for charity care
- Provided information about the specific discounts provided based on patients' incomes
- Provided access to information about charity care in language(s) other than English

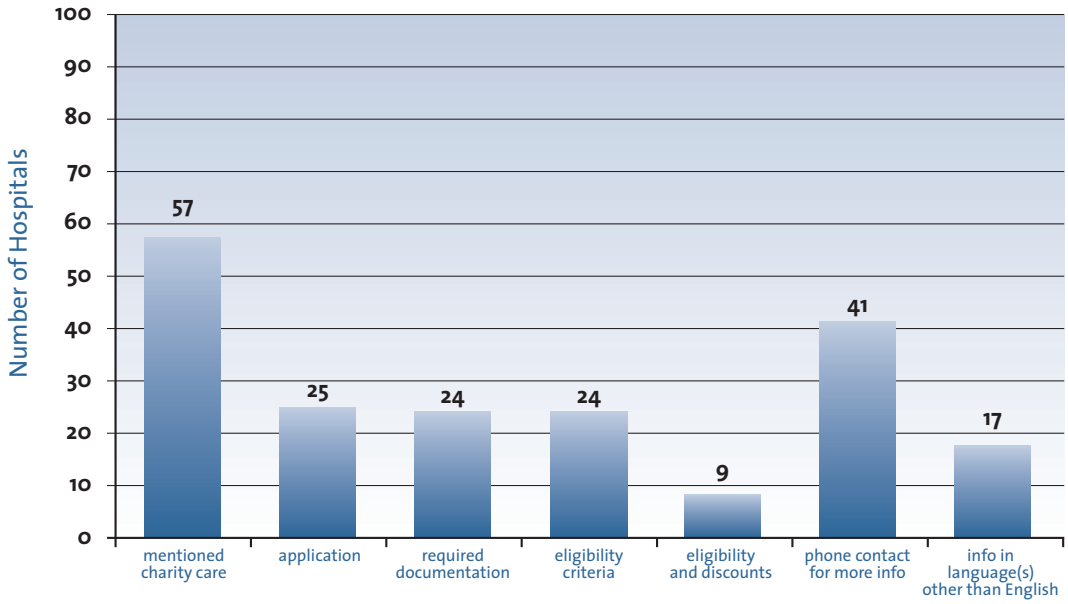
Survey Findings

Website Findings

Slightly over half (57) of the 99 hospital websites we searched mentioned the availability of charity care, but only about a quarter (25) included an actual application form; almost all of these included information about the documentation applicants needed to submit along with their form. About the same number (24) provided information about who qualified for financial assistance based on patients' incomes. Only nine hospitals also provided information outlining the specific discounts they offered based on patients' income. Fewer than half of the websites (41) listed a phone number a patient could call to get more information, and fewer than one-fifth (17) provided information in language(s) other than English.

CHART 1

Charity Care Information Found on Hospital Websites



N=99

Information Provided on Hosptal Website

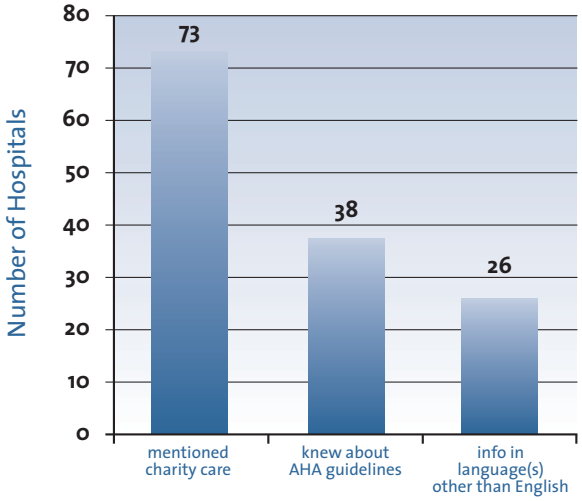
Telephone Inquiry Findings

As well as searching hospital websites, we attempted to get information about hospital free care policies by phoning the facilities. We made up to three attempts to contact the appropriate person. We were able to speak with an appropriate contact at 73 of the 99 hospitals in our sample.

All of the hospitals that we were able to contact acknowledged that their institution offered charity care. Among these hospitals, only slightly more than half of the hospital representatives (38) said they were aware of the AHA billing and collection guidelines. Also, only about a third of the hospitals we were able to contact (26) could offer information in language(s) other than English.

CHART 2

Charity Care Information Obtained Through Telephone Calls (1)



N=73 Information Obtained

Maria had eye surgery at a hospital in New York. Although she had insurance through her union, it did not cover all of her costs. Hospital staff did not screen her for eligibility for financial assistance, and they also did not discuss the possibility of arranging a payment plan. They refused to screen her even after an advocate contacted staff on Maria's behalf. The hospital is now requiring Maria to obtain a denial letter from Medicaid before she applies for financial aid.

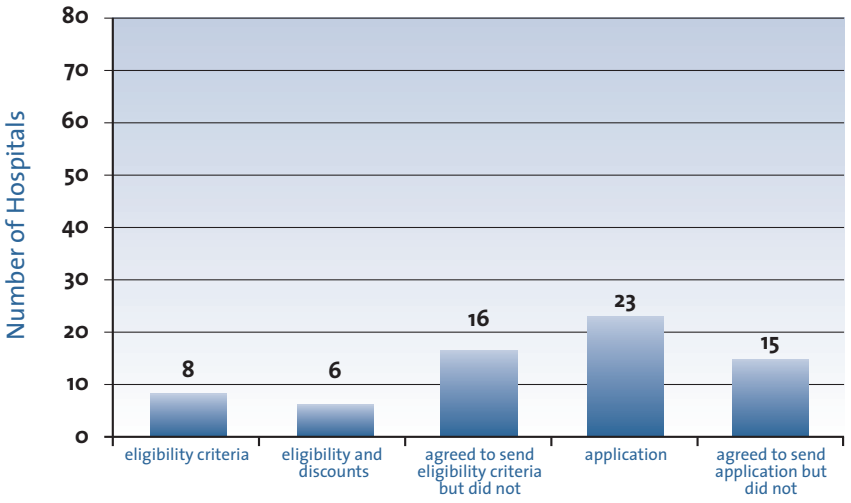
This behavior conflicts with a New York law that requires hospitals to provide financial assistance for people who are uninsured or whose insurance benefits have been exhausted, whose income is below a certain level, and who cannot afford the full cost of care. Hospitals are also supposed to allow people to apply for financial assistance at the same time that they apply for Medicaid. In addition, the law requires hospitals to make it easy for people to find out about and apply for financial assistance.

When Maria needed a second eye surgery and went to another hospital, she had a different experience. The hospital screened her for eligibility for assistance and is now processing her application.

In our telephone calls, eight hospitals provided information about the eligibility criteria for their charity care programs. Of these, six also provided specific information about the discounts they offered. An additional 16 hospitals said they would send us information about their charity care eligibility criteria but did not do so. We obtained an application form from about a third of the hospitals we contacted by phone (23). An additional 15 said they would send an application form but did not do so.

CHART 3

Charity Care Information Obtained Through Telephone Calls (2)



N=73

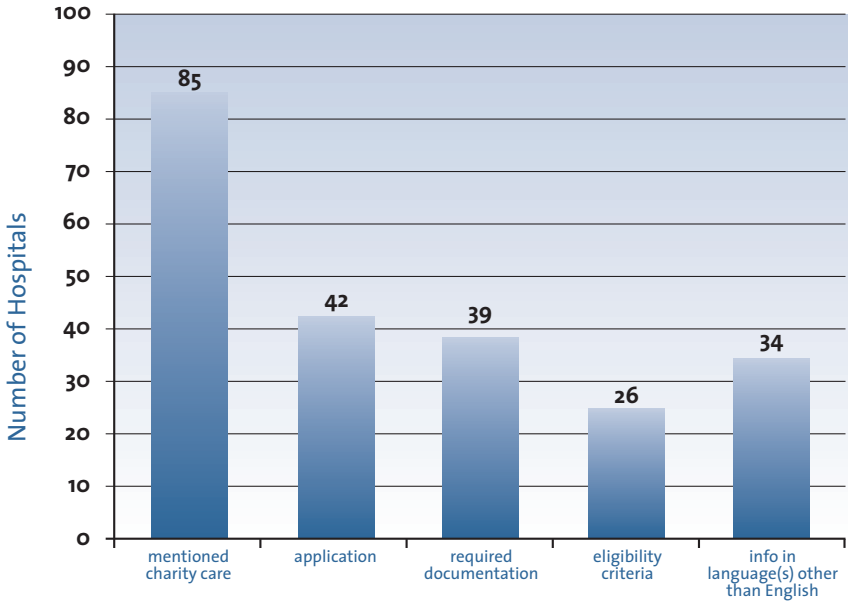
Information Obtained

Combined Findings

Finally, we looked at how many hospitals provided the information described above on either their website or the telephone, or both – a more conservative measure than looking at how many hospitals provided the information in both places. While most hospitals mentioned the availability of charity care on either their website or over the phone (85), fewer than half (42) of the overall sample provided an application form. Of these, almost all (39) included information about the documentation applicants needed to submit along with their form. Only about a quarter of the hospitals in the sample (26) provided information about the eligibility criteria for their charity care programs. About a third (34) provided information in language(s) other than English.

CHART 4

Charity Care Information Provided on Either Website or Telephone



N=99

Information Provided

Discussion and Recommendations

The results from this random survey of non-profit hospitals reveal that while some hospitals have made their charity care eligibility criteria and program applications accessible to consumers and the public, many have not. While most hospitals mentioned the availability of charity care on either their website or over the phone, fewer than half provided an application form for financial assistance, and only about a quarter provided information about who qualified for charity care. Only about a third provided information in a language other than English. Surveyors were able to contact by phone someone who could provide information about financial assistance policies at fewer than three-quarters of the hospitals. In many cases, phone representatives promised to send charity care applications and/or information

about eligibility criteria but did not actually do so. These findings indicate that, despite the AHA's assurances, a significant number of non-profit hospitals are *not* voluntarily complying with the organization's billing and collection guidelines regarding the transparency of information about charity care programs.

Our survey, combined with the myriad reports and articles about problems related to non-profit hospitals' provision of charity care, show that, contrary to the AHA's claims, voluntary guidelines regarding billing and collections practices for the uninsured and underinsured are not sufficient. While some hospitals have behaved responsibly in this area and complied with the guidelines, many have not. Both the new national health care reform law[35] and new Internal Revenue Service (IRS) requirements mandating that hospitals disclose information about their community benefit and charity care programs offer an opportunity to reconsider what must be done to ensure that needy patients can rely on this critical component of the health care safety net.

Dawn, a hospital patient in Pennsylvania, called her hospital's business office to sign up for charity care. The receptionist she was connected to said the hospital did not offer such a program. Dawn pointed out that the hospital's web-site claimed the hospital did offer a charity care program to maintain its tax-exempt status. The receptionist insisted that Dawn was incorrect but finally agreed to connect her to the department manager. The manager also maintained that the hospital did not offer charity care. Only after a long conversation did he finally ask for her name and address and agree to send her a charity care application form. Dawn shared this story with her state Department of Public Welfare and said, "How many others have been turned away by this hospital that needed care? ...I hope the state finds better ways to regulate [the hospital's] charity care program."

Recommendations

Based on the findings of this survey, we recommend the following:

1. The federal government should promptly and rigorously implement the community benefit and charity care requirements in the national health care law.[36]

   In the context of this report, some of the most important provisions include requiring non-profit hospitals to establish written financial assistance policies that clearly specify eligibility criteria, widely publicize these policies, limit hospital charges for medically necessary care for people who qualify for financial assistance, and prohibit "extraordinary" collection actions before making a "reasonable effort" to determine whether patients qualify for financial assistance.

   The implementation of the law will require the development of new regulations. For example, it is up to the Secretary of the Treasury and the IRS to determine what constitutes "extraordinary" collection actions and "reasonable efforts" to determine whether patients qualify for financial assistance. It will be important for the government to establish rigorous regulatory requirements in this area. In addition, the government should establish clear standards for what must be included in a financial assistance policy and the process by which patients are informed about the availability of assistance.

2. The federal government should widely publicize data it collects on hospitals' provision of community benefits and charity care.

   The IRS is now requiring non-profit hospitals to file Form 990s that list the amount of charity care they provide, the amount of bad debt they incur, and other community benefits they fund. In addition, the national health care reform law requires the federal government to report regularly on the costs hospitals incur from bad debt and charity care. Access to these data will help communities and states assess the extent to which their hospitals are providing reasonable amounts of financial assistance to patients. Hospitals providing relatively low amounts of assistance may not be adequately informing their patients about the existence of financial assistance programs.

We believe it is important to maintain and strengthen these reporting requirements. In particular, we believe reporting should be done by hospital, rather than by hospital system, so that communities can monitor the community benefits and charity care provided by their local hospital(s). Also, hospitals should be required to publish these data on their websites.

3. States that do not currently have laws and regulations regarding the transparency of charity care policies and practices that exceed the federal requirements should consider enacting them.

   We have already cited laws in Maryland and California that establish important requirements regarding the dissemination of hospital charity care policies. These laws also set criteria for eligibility for charity care and the amount of assistance that must be provided. Community Catalyst's *Free Care Compendium* provides information about existing laws and regulations in each state.[37] The website also contains Patient Financial Assistance and Health Care Institution Responsibility Model Acts that advocates and policymakers can use to develop appropriate legislation in this area.

   In the context of this report, key provisions of any legislation would include standards for the information charity care policies must include, the languages in which information is made available, and the process by which patients are informed about the programs.

4. Legislation and enabling regulations should include a prohibition on sending patients' bills to collection agencies until hospitals have made good faith efforts to ensure that patients are aware of the availability of financial assistance.

   Hospitals frequently use either internal or external collection agencies to try to obtain reimbursement for unpaid bills. These debts frequently end up on people's credit reports, negatively affecting their ability to get credit. This survey and other research suggest that many of these people may have been eligible for financial assistance but were unaware of available programs.[38] It is important that people are screened for eligibility for financial assistance before hospitals take actions that may damage their credit records.

5. The federal government and states that have enacted community benefit and charity care laws must conduct regular oversight to ensure that hospitals are complying with their legal requirements.

   The findings from this survey indicate that even when hospitals agree to follow guidelines, they do not always do so in practice. Monitoring and enforcement are necessary to ensure that hospitals fulfill their obligations. Penalties should be imposed on hospitals that are not in compliance.

6. Hospitals should look for opportunities to collaborate with community representatives to ensure that charity care, billing and debt collection policies respond to the needs of the populations they both serve.

   The findings of this survey, while demonstrating the need for clear, mandatory requirements regarding the provision of charity care, also suggest opportunities for better collaboration between community-based organizations, public officials, hospitals and other safety-net providers to ensure that hospital policies adequately reflect the needs of their communities. The national health care reform law requires non-profit hospitals to conduct regular community needs assessments and solicit input from community representatives.[39] These assessments have the potential to stimulate dialogue that can help hospitals understand when policies should be updated to reflect changing needs in their communities; whether policies are actually being implemented as written by billing departments or admissions staff; and where broader interventions through public policy are necessary. Such partnerships can contribute to a stronger, fairer, more flexible health care system.

Conclusion

Ever growing numbers of Americans are suffering under the weight of burdensome medical bills, which can result in lack of access to needed care and the undermining of families' financial security. Even though a national health care reform law has been passed, many uninsured and underinsured people will require assistance in paying these bills. The health care safety net in the United States is comprised of a variety of public and private programs; hospital charity care is and will remain an essential component for the foreseeable future.

Non-profit hospitals receive important benefits from their non-profit status, including a variety of tax exemptions. It is only fair that in exchange for these exemptions, along with the federal and state subsidies that many also receive, non-profit hospitals act as true charities when providing care to low- and middle-income people. The first step in offering financial assistance to needy consumers is to ensure that consumers are aware of the availability of their options for assistance. In spite of the voluntary guidelines established by the AHA, our survey shows that too many hospitals are still falling short of their obligations in this area.

We therefore call on the federal and state governments to clearly specify the charity care requirements that hospitals must meet in exchange for their non-profit status and verify that hospitals are complying with them. Government officials must begin to hold non-profit hospitals accountable for their financial assistance practices, ensuring that they are transparent and in conformity with the law.

Endnotes

[1] *2008 Draft Instructions for Schedule H (Form 990)*, Internal Revenue Service, August 2008.

[2] *Americans Believe Non-profit Hospitals Should Provide Charity Care and Support Regulation and Penalties If They Fall Short*, Community Catalyst, November 2008, available at http://www.communitycatalyst.org/doc_store/publications/HAP_Polling_Fact_Sheet.pdf.

[3] See for example, *Not There When You Need It: The Search for Free Hospital Care,* Community Catalyst, November 2003; F. Schulte and J. Drew, "In their debt: Maryland hospitals have stepped up debt collection, sometimes from the poor, and Gov. O'Malley demands review," *Baltimore Sun*, December 21, 2008.

[4] J. Heflin, "Politics makes strange bedfellows in fight against nonprofit hospitals," *The Hill*, March 29, 2010. Senator Grassley has been a leader in investigating non-profit hospitals' charity care practices and in advocating for stronger standards. He played a key role in inserting language in the national health care law regarding non-profit hospitals' responsibility for providing charity care.

[5] B. Martinez, "Cash Before Chemo: Hospitals Get Tough," *The Wall Street Journal*, April 28, 2008.

[6] IRS Exempt Organizations Hospital Study, February 2009. Regarding variations in the amount of charity care non-profit hospitals provide, see also J. Ryan, "The Charity of Hospitals," *KUOW News,* July 7, 2009; S. Allen and M. Bombardieri, "Much is given by hospitals, more is asked: Non-profits reaping more in tax breaks than they report in charity work. Some say that must change," *Boston Globe*, May 31, 2009; H. Knight, "2 hospitals got millions, spent little on charity care," *SFGate.com*, January 29, 2008.

[7] *Hospital Billing and Collection Practices: Statement of Principles and Guidelines by the Board of Trustees of the American Hospital Association*, American Hospital Association, available at http://www.aha.org/aha/content/2006/pdf/guidelinesfinalweb.pdf.

[8] Letter from American Hospital Association to Representative Nancy Pelosi and Senator Harry Reid, January 7, 2010, available at http://www.modernhealthcare.com/assets/pdf/CH6816417.PDF. Compare with letter from Catholic Health Association to the United States Senate, January 15, 2010, available at http://www.chausa.org/Pages/Advocacy/Issues/Accessible_and_Affordable_Health_Care_for_Everyone/. The Catholic Health Association (CHA), whose guidelines on community benefit planning and reporting were largely incorporated in the Internal Revenue Service's new reporting requirements for hospitals, found the reform requirements on charity care, billing, and community needs assessments to be consistent with their principles.

[9] *AHA Says Tax-Exempt Hospitals Prepared for Health Law Pending IRS Implementation*, Drinker Biddle & Reath Health Law Alert, available at www.drinkerbiddle.com/publications/.

[10] *Uncompensated Hospital Care Cost Fact Sheet*, American Hospital Association, November 2009, available at http://www.aha.org/aha/content/2009/pdf/09uncompensatedcare.pdf.

[11] M. Doty, S. Collins, S. Rustgi, and J. Kriss, *Seeing Red: The Growing Burden of Medical Bills and Debt Faced by U.S. Families,* The Commonwealth Fund, August 2008.

[12] See for example R. Seifert, *The Consequences of Medical Debt: Evidence from Three Communities*, The Access Project, February 2003; R. Seifert, *Home Sick: How Medical Debt Undermines Housing Security*, The Access Project, 2005; C. Pryor et al, *The Illusion of Coverage: How Health Insurance Fails People When They Get Sick*, The Access Project, 2007.

[13] M. Doty et al, *op.cit*.

[14] D. Hilzenrath, "Employers plan to shift more health-care costs to workers, survey reports," *Washington Post*, March 11, 2010.

[15] L. Lagnado, "Twenty Years and Still Paying," *Wall Street Journal*, March 13, 2003.

[16] G. Rollins, *Uncharitable Care: Yale-New Haven Hospital's Charity Care and Collections Practices,* Connecticut Center for a New Economy, January 2003.

[17] J. Appleby, "Hospitals Sock Uninsured with Much Bigger Bills, Insurance Companies, Medicare Get Huge Discounts Individuals Can't," *USA Today*, February 25, 2004; S.B. Miller, "Probing Disparity in Healthcare Bills," *The Christian Science Monitor*, May 19, 2003.

[18] C. Wilson, "Illinois AG Turns Eye on Hospital Charity Care," *Inside A.R.M.*, October 4, 2007.

[19] *Compliance Review: Charity Care and Collections Practices*, AG:#1348658-v1.

[20] L. Yue and M. Colias, "Illinois Supreme Court Upholds Ruling Against Provena in Tax-exempt Case," *ChicagoBusiness*, March 18, 2010.

[21] S. Tribble, "University Hospitals' bills don't explain that financial help may be available to those who make more than poverty guidelines," *The Plain Dealer*, August 1, 2009.

[22] *Not There When You Need It, op cit*. S. Kershaw, "Council Says Some Hospitals Don't Follow New Law on the Uninsured," *New York Times*, October 31, 2007.

[23] G. Anderson, "From 'Soak the Rich' to 'Soak the Poor': Recent Trends in Hospital Pricing," *Health Affairs*, 26:3 2007.

[24] A. Linker, *How Charitable are North Carolina Hospitals?* North Carolina Health Access Coalition, February 2010.

[25] B. Martinez, *op.cit*.

[26] B. Grow and R. Berner, "Fresh Pain for the Uninsured," *Business Week*, November 21, 2007.

[27] Hospital charity care policies are searchable in the *California Hospital Free and Discount Payment Programs* section of the Office of Statewide Health Planning and Development (OSHPD) website, available at http://syfphr.oshpd.ca.gov/search.aspx.

[28] See *Free Care Compendium, California*, http://www.communitycatalyst.org/projects/hap/free_care?id=0005, and *Maryland*, http://www.communitycatalyst.org/projects/hap/free_care?id=0020, Community Catalyst.

[29] The *Free Care Compendium* provides summaries of the relevant legislation in each state. The *Compendium* can be found at http://www.communitycatalyst.org/projects/hap/free_care.

[30] A summary of the provisions regarding community benefits in the national health care reform law is available on the Community Catalyst website http://www.communitycatalyst.org/doc_store/publications/Hospital_Accountability_Summary_National_Reform_Law.pdf.

[31] *Hospital Billing and Collection Practices: op.cit*

[32] See B. Lottero and C. Pryor, *Voluntary Commitments: Have Hospitals that Signed a Confirmation of Commitment to the American Hospital Association's Billing and Collections Guidelines Really Changed Their Ways?* The Access Project, May 2005, p. 5 and footnote 3. The report quotes a statement the American Hospital Association posted on its website saying that if it received commitments from 5,000 member hospitals agreeing to comply with the association's voluntary guidelines, the Congressman investigating non-profit hospitals' billing and collection practices had promised that "....we won't have to legislate." The AHA urged members to sign commitments as a way of avoiding mandatory requirements. The AHA later removed this statement from its website.

[33] *Ibid*.

[34] Letter from AHA to Nancy Pelosi and Harry Reid, *op.cit*.

[35] Section 9007 of the *Patient Protection and Affordable Care Act*, Pub. L. 111-148 (2010), as amended by the *Health Care and Education Reconciliation Act of 2010,* Pub. L. 111-152 (2010). Also, see *Summary of Provisions in National Health Reform, op.cit*.

[36] *Ibid*.

[37] *Free Care Compendium, op.cit*.

[38] See footnote 12.

[39] Section 9007 of the *Patient Protection and Affordable Care Act*, Pub. L. 111-148 (2010), as amended by the *Health Care and Education Reconciliation Act of 2010,* Pub. L. 111-152 (2010). Also, see *Summary of Provisions in National Health Reform, op.cit*.