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Maryland Health Services Cost Review Commission
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Baltimore, MD 21215

Cc: Megan Renfrew, Deputy Director, Policy & Consumer Protection

Refund Process Comments

On behalf of Economic Action Maryland and the undersigned organizations, we submit these comments on the refund law process. Economic Action Maryland champions economic rights, equal opportunity, and housing justice through advocacy, research, and direct service. Our 12,000 supporters across the state unite to take action on issues that will improve the lives of working families across Maryland.

Proposed Timeline for Implementation

- **Recommendation-Refund Letters Must Go Out by October 5, 2024**

First, we are pleased that this process is moving forward. As we all know, there have been unforeseen developments and challenges that have delayed the implementation of this law. As passed the Reimbursement Law requires general acute care and chronic care hospitals to provide refunds to eligible patients. Patients who paid more than \$25 for hospital services received in any year between 2017 and 2021 and were eligible, at the time of service, for free care from the hospital under Maryland's law related to hospital financial assistance (Health General §19-214.1) are eligible for these refunds.

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Secondly, we are pleased to see the increased attention to consumer protection and patients needs at the Health Services Cost Review Commission (HSCRC). While we are heartened to see these issues elevated and to have a point of contact focused on these issues, the failure to attend to or adequately consider patients' needs in prior years has led to troubling unintended consequences for low-income patients. We look forward to working with the HSCRC to continue to elevate and amplify the needs of patients and consumer protection issues related to access to free and reduced-cost care, medical debt collections, and hospital's community benefits.

For these reasons, we believe that time is of the essence in moving forward with the Refund Law process. Patients have been waiting a year since the passage of the implementation bill for stakeholders to move forward. As you are well aware, many low-income patients are itinerant and may move from one residence to another to take advantage of new employment

opportunities, seek more affordable housing, or for other reasons. Therefore, mailing letters to potentially eligible former patients is likely to be less effective as more time passes. For these reasons, we urge the HSCRC, the Comptroller's office, DHS, and WIC to send letters to potentially eligible recipients **no later** than October 5, 2024.

Consumer Communications

The goal of the Reimbursement Law is first and foremost to provide refunds to low-income patients who were wrongly pursued for bad debt and paid hospitals the charges owed when, actually, these patients were entitled to free care.

With redress and repair to these low-income patients as the ultimate goal, the efforts to communicate in a timely, effective, and accessible way to eligible patients is critical to the success of this law.

Looking at the proposed timeline, it appears that the consumer communications work is behind schedule. We urge the HSCRC to prioritize this aspect of the work plan as much as staff capacity will allow.

2.6.6.1 Written letter: COM, DHS, and MDH/WIC may contact the patient or guarantor through a secure portal or a physical letter contained in an envelope.

- **Recommendation: COM, DHS, and MDH/WIC must contact the patient or guarantor through a secure portal and a physical letter.**

As the goal is to make sure as many eligible patients as possible are aware that they may qualify for a refund, we urge the Comptroller, DHS, and MDH/WIC to use every available means at their disposal to reach eligible patients. We also urge these state agencies to use multiple means

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of outreach in order to effectively raise awareness and spur former patients to reach out to hospitals to determine if they are owed a refund.

Neuroscience has determined that repeating a message multiple times leads listeners to find the message more truthful¹ because repetition increases processing fluency. The research found that hearing a message up to nine times increased a belief in the truthfulness of the message, and after that, there were diminishing returns.

The workgroup has discussed two critical challenges in communicating with consumers; first, that robust messaging reaches consumers so that eligible patients will pursue a refund; and, secondly, that consumers believe that the opportunity to receive a refund is a legitimate and valid offer, not a scam.

Given these challenges, having state agencies reach out multiple times using different vehicles is critical to both raising awareness and ensuring that consumers understand that the potential refund is legitimate and not ‘too good to be true’.

2.6.7 Number of contacts:

- **Recommendation: The state agency shall contact each patient or guarantor at least 7 times to inform them of the refund.**

As discussed above, individuals need to hear information several times in order to remember it, believe it, and act upon it. If the goal is to reach eligible patients to ensure they are aware they may be entitled to a refund, then it behooves state agencies to reach out to consumers at least seven times. Debt collectors, including hospital debt collectors, are allowed by law to contact patients seven times a week via phone, email, text, and letter. To do less outreach over a period of weeks than debt collectors do in one week seems ineffective if we are serious about reaching and making whole patients that qualified for free care but were wrongly pursued for debt.

The work group already decided to eliminate the possibility of using email and text messaging which already limits our reach.

We support the idea that each subsequent contact shall be spaced at least 10 days after the prior contact as well as the idea that multiple modes of contact are used.

Additional Consumer Communications Recommendations

- **Recommendation: Expand language access**

We support the current proposal that the notification letter and the website be translated into Spanish. In addition to harmonize with current law, we propose that in addition to English and

¹ <https://cognitiveresearchjournal.springeropen.com/articles/10.1186/s41235-021-00301-5>

Spanish, hospitals provide materials on the website in *each language spoken by a limited English proficient population that constitutes 5% of the overall population within the city or county in which the hospital is located as measured by the most recent census*²

In addition, the letters that are sent from state agencies should conform to §10–1103 *so that documents are translated into any language spoken by any limited English proficient population that constitutes 3% of the overall population within the geographic area served by a local office of a State program as measured by the United States Census*³.

- **Recommendation: Create a Robust, Multi-Pronged Media Strategy**

We are pleased that the project implementation plan includes an outreach campaign that includes social media. Awareness of the law, the letters that will be sent out, and the potential to receive a refund must be communicated frequently by trusted validators to break through the cacophony of news and noise in today’s world. We recommend a high-profile launch of this effort including Governor Moore, AG Brown, Comptroller Lierman, and others to instill trust in this effort and help assure individuals that the letters they may receive are not a scam. Radio PSAs, television PSAs, social media, flyers, and outreach by a number of stakeholders is critical to achieve the level of awareness needed.

- **Recommendation: Patients Rights and Timelines Must be Clear**

Potentially eligible patients must understand the timeline for successive steps of the Reimbursement Law as well as the role HEAU will play in this process. For example, in 2.9.1 and 2.9.2, hospitals must provide a refund within ten days. Patients should understand this timeline both to ensure that they do not repeatedly call the hospital to check on the status of a refund as well as to be aware of when they should have received an answer and reach out to the hospital or to HEAU under certain circumstances.

This timeline and the role of HEAU should be clearly enumerated on the hospital website section that explains the Reimbursement Law. The section of the website explaining the Reimbursement Law and the timeline should be linked in a highly visible way on the hospital’s homepage and should be accessible after no more than two clicks on the webpage.

Data Collection and Retention

- **Ensure data collection is inclusive of Maryland’s trans community.**

In the Reimbursement PII template, a patient’s first and last name, as well as gender are required. For gender identity, the only options are M, F, U. It is possible that there are patients who are eligible for refunds who now have a different legal name and different gender identity. Trans and

² https://mgaleg.maryland.gov/2020RS/chapters_noln/Ch_470_hb1420T.pdf

³ <https://mgaleg.maryland.gov/mgaweb/Laws/StatuteText?article=gsg§ion=10-1103#>

LGBTQIA organizations should be consulted to make sure that the data collection will capture eligible individuals whose names or gender identity has changed and that the data collection affirms and supports their needs.

While we agree that data should be destroyed as soon as possible, data privacy concerns must be balanced with the data that HEAU would need in order to respond to patients' complaints or to investigate patients' claims.

Oversight and Accountability

- **Clarify and Expand on Oversight and Accountability Processes**

The Commission has the power to impose fines of up to \$50,000 per violation should a hospital fail to provide refunds to a patient that qualifies for one⁴. However, it is less clear how the Commission will determine that hospitals have failed to provide refunds to qualified patients; the timeline for determining violation(s) exist; who on the Commission will be making this determination; the basis for determining whether to fine a hospital as well as the severity of the fine; whether the findings and fines levied will be made public; whether the \$50,000 fines go to the General Fund or elsewhere. Will these meetings be public? Will the findings be public? There should be transparency within the oversight process and the Commission should make the process and findings publicly available on their website.

Conclusion

We appreciate the work that has already been done to implement the Reimbursement Law as well as the productive efforts of the Work Group. We urge the Commission to adopt our recommendations to ensure robust outreach, clear communications, and transparency in implementing the law and making patients whole.

Best,

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⁴ <https://mgaleg.maryland.gov/mgaweb/Laws/StatuteText?article=ghg§ion=19-214.4&enactments=false>