

# DOLLAR FOR

The Honorable Danny Werfel  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue NW  
Washington, DC 20224

December 5, 2024

Re: Recommendations for 501(r) guidance

Dear Commissioner Werfel,

Dollar For applauds and thanks the IRS for its plan to issue guidance on the application of 26 CFR § 501(r). Dollar For is a national nonprofit that helps patients apply for hospital financial assistance. We maintain a database of every U.S. hospital's financial assistance policy (FAP), which is connected to a single online screener that is free for patients to use and apply. To date, we have helped over 20,000 patients get nearly \$70 million in medical debt forgiven through charity care. Our data and first-hand experience in helping patients through the process give us a unique perspective about the breakdown of many charity care programs and the challenges patients face. Our research estimates there is at least \$14 billion in ungranted charity care every year and that over one-third of bad debt is held by patients eligible for 100% charity care debt forgiveness.<sup>1</sup>

Medical debt is an extraordinarily important issue for communities throughout the country. Medical expenses push more people into poverty than any other individual cost;<sup>2</sup> they contribute to the majority of

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<sup>1</sup> Dollar For. (2024). Bridging the Chasm: Closing the \$14 Billion Access Gap in Charity Care. Report. [https://dollarfor.org/wp-content/uploads/2024/04/Dollar\\_For.Bridging\\_the\\_Chasm.pdf](https://dollarfor.org/wp-content/uploads/2024/04/Dollar_For.Bridging_the_Chasm.pdf)

<sup>2</sup> Shrider, E. A. (2024, September). Poverty in the United States: 2023. Census Bureau. <https://www2.census.gov/library/publications/2024/demo/p60-283.pdf>

bankruptcies,<sup>3</sup> lead to evictions and food insecurity, and dominate state court debt collection dockets.<sup>4</sup> Worse, medical debt is a public health crisis. One in four Americans skip or delay needed care because of cost,<sup>5</sup> and 41% who delayed care had their health problems decline.<sup>6</sup>

As you know, nonprofit hospitals must comply with the rules in 26 CFR § 501(r) to earn their tax exempt status. Additionally, and more generally, a hospital must “primarily benefit the community.”<sup>7</sup> Common practices have emerged among hospitals that violate 501(r) and do not benefit their communities. Specifically, many hospital charity care policies impose residency requirements, limit eligibility based on insurance status, do not widely publicize their policies, and impose artificial deadlines to supplement applications. Dollar For encourages the IRS to clarify the existing rules addressing these issues in its upcoming guidance.

## Residency Restrictions

Many U.S. hospitals require patients to be residents of a geographic area to be eligible for charity care. In fact, nearly half (46.5%) of hospitals require a patient to reside in a certain area to be eligible for financial assistance. Nearly

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<sup>3</sup> Himmelstein, D. U., Lawless, R. M., Thorne, D., Foohey, P., & Woolhandler, S. (2019). Medical Bankruptcy: Still Common Despite the Affordable Care Act. *American journal of public health*, 109(3), 431–433. <https://doi.org/10.2105/AJPH.2018.304901>

<sup>4</sup> Dollar For. (2023). *Pointless Debt: How Oregon Hospitals Skirt Financial Assistance Laws to Charge Patients -- Without Increasing Revenue*. Dollar For. [https://dollarfor.org/wp-content/uploads/2023/07/PointlessDebt- OregonReport\\_DollarFor.pdf](https://dollarfor.org/wp-content/uploads/2023/07/PointlessDebt- OregonReport_DollarFor.pdf)

<sup>5</sup> Lopez, L., Montero, A., Presiado, M., & Hamel, L. (2024, March 1). *Americans' Challenges with Health Care Costs*. KFF. Retrieved Dec 5, 2024, from <https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/#:~:text=to%20the%20cost:-,Dental%20services,2022>

<sup>6</sup> Collins, S. R., & Gupta, A. (2024, November 21). *The State of Health Insurance Coverage in the U.S. Findings from the Commonwealth Fund 2024 Biennial Health Insurance Survey*. Commonwealth Fund. Retrieved Dec 5, 2024, from <https://www.commonwealthfund.org/publications/surveys/2024/nov/state-health-insurance-coverage-us-2024-biennial-survey>

<sup>7</sup> Warren, E., & Grassley, C. E. (2024, Nov 19). *Letter from US Senate*. US Senate. [https://www.warren.senate.gov/imo/media/doc/letter\\_to\\_irs\\_on\\_nonprofit\\_hospitals1.pdf](https://www.warren.senate.gov/imo/media/doc/letter_to_irs_on_nonprofit_hospitals1.pdf)

one-third of these hospitals require patients to live in the hospital’s state, and over 50% require the patient to live in the more narrowly defined “service area” for the hospital.<sup>8</sup>

Existing regulations clearly prohibit this requirement. 26 CFR § 501(r)-4 establishes the requirements for a compliant financial assistance policy. It requires the hospital’s policy to “Apply to all emergency and other medically necessary care provided by the hospital facility, including all such are provided in the hospital facility by a substantially-related entity ...”<sup>9</sup> There is no exception anywhere in 501(r) permitting a hospital facility to limit its financial assistance policy to emergency and other medically necessary care for patients who live in a certain area.

The IRS should clarify that a financial assistance policy cannot require a patient to reside in a particular area to be eligible.

### **Insurance Restrictions**

Hundreds of hospitals (approximately 3.2%) have policies that preclude insured patients from financial assistance eligibility.<sup>10</sup> These policies are not compliant with 501(r) and they also are extremely unlikely to benefit their communities.

Again, 26 CFR § 501(r)-4 requires the hospital’s policy to “Apply to all emergency and other medically necessary care provided by the hospital facility, including all such care provided in the hospital facility by a substantially related entity ...”<sup>11</sup> The regulations do not have an exception

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<sup>8</sup> Messac, L., Janke, A. T., Rodgers, L. H., Fonfield, I., Walker, J., Rushbanks, E., Becker, N. V., & Bai, G. (2024). US Nonprofit Hospitals Have Widely Varying Criteria To Decide Who Qualifies For Free And Discounted Charity Care. *Health Affairs*, 43(11), 1569-1577. <https://www.healthaffairs.org/doi/10.1377/hlthaff.2023.01615>

<sup>9</sup> 26 CFR § 501(r)-4(b)(i)

<sup>10</sup> Messac, L., Janke, A. T., Rodgers, L. H., Fonfield, I., Walker, J., Rushbanks, E., Becker, N. V., & Bai, G. (2024). US Nonprofit Hospitals Have Widely Varying Criteria To Decide Who Qualifies For Free And Discounted Charity Care. *Health Affairs*, 43(11), 1569-1577. <https://www.healthaffairs.org/doi/10.1377/hlthaff.2023.01615>

<sup>11</sup> 26 CFR § 501(r)-4(b)(i)

allowing a hospital policy to only provide charity care to uninsured patients who received emergency and other medically necessary care.

Insured patients are also increasingly in the class of hospital community members who need financial assistance. A recent survey found that nearly a quarter of Americans are underinsured, meaning their insurance does not provide affordable access to health care.<sup>12</sup>

Dollar For encourages the IRS to clarify that a hospital financial assistance policy may not preclude insured patients from eligibility.

## **Widely Publicizing the Policy**

### **Wide Distribution on Website**

More than half of patients report that the hospital never informed them about their financial assistance policy.<sup>13</sup> Further, the most common reason patients give when asked why they did not apply for charity care was that they did not know it existed (65%).<sup>14</sup>

Current regulations require tax-exempt hospitals to make their financial assistance policy, application, and plain language summary “widely available on a Web site.”<sup>15</sup> Most hospitals only have these documents available on a single page of their website, and it's rarely directly linked to the hospital's landing page. These practices do not meet the definition of “widely” available on the hospital's website.

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<sup>12</sup> Collins, S. R., & Gupta, A. (2024, November 21). The State of Health Insurance Coverage in the U.S. Findings from the Commonwealth Fund 2024 Biennial Health Insurance Survey. Commonwealth Fund. Retrieved Dec 5, 2024, from <https://www.commonwealthfund.org/publications/surveys/2024/nov/state-health-insurance-coverage-us-2024-biennial-survey>

<sup>13</sup> Dollar For. (2024). The Path to Charity Care: Exploring the Journey and Roadblocks to Financial Assistance for Medical Bills. Report. [https://dollarfor.org/wp-content/uploads/2024/04/Dollar\\_For\\_Path.pdf](https://dollarfor.org/wp-content/uploads/2024/04/Dollar_For_Path.pdf)

<sup>14</sup> Dollar For. (2024). The Path to Charity Care: Exploring the Journey and Roadblocks to Financial Assistance for Medical Bills. Report. [https://dollarfor.org/wp-content/uploads/2024/04/Dollar\\_For\\_Path.pdf](https://dollarfor.org/wp-content/uploads/2024/04/Dollar_For_Path.pdf)

<sup>15</sup> 26 CFR § 501(r)-4(b)(5)(A)

Dollar For recommends that the IRS should require hospitals to link directly to their financial assistance information at multiple points or “widely” throughout their website.

### Reasonable Efforts to Notify and Inform Patients

Regulations require hospitals to “notify and inform members of the community served by the hospital facility about the FAP in a manner ***reasonably calculated*** to reach those members who are most likely to require financial assistance from the hospital facility.”<sup>16</sup> Many hospitals know that patients are very unlikely to receive their communication about the existence of charity care, but they continue to communicate the same way regardless.

For example, the Oregon Health Authority (OHA) confidentially interviewed multiple hospitals to prepare an update to the legislature on the implementation of Oregon’s state charity care law, which passed in 2019. In the report, the OHA wrote:

One hospital system reported in an interview that it spends an average of \$7,000 a month mailing financial assistance applications to patients that may be subject to collection actions and receives less than 1% of applications in return.<sup>17</sup>

This behavior is common. Hospitals are not required to be perfect in their communication about charity care, but their communication must be “reasonably calculated” to reach the patients who need financial assistance. All evidence suggests that hospitals are turning a blind eye to the effectiveness of communication methods, or worse, continuing with methods they know do not work.

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<sup>16</sup> 26 CFR § 501(r)-4(b)(5)(C) (emphasis added).

<sup>17</sup> Oregon Health Authority. (2022). HB 3076 Implementation Report: Status of the new hospital community benefit program, expanded financial assistance, and new medical debt protections. Report. Retrieved Dec 5, 2024, from [https://www.oregon.gov/oha/HPA/ANALYTICS/HospitalReporting/HB-3076-Comm-Benefit-Leg-Report.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://www.oregon.gov/oha/HPA/ANALYTICS/HospitalReporting/HB-3076-Comm-Benefit-Leg-Report.pdf?utm_medium=email&utm_source=govdelivery)

Dollar For recommends that the IRS clarify to hospitals that they must make reasonable and best efforts to try and effectively communicate with their patients about the existence of charity care.

### **Conspicuous Notice on Billing Statements**

Hospitals are required to place a “conspicuous written notice on billing statements that notifies and informs recipients about the availability of financial assistance under the hospital facility’s FAP.”<sup>18</sup> Given that most patients who need charity care report that the hospital never informed them of their program, it’s likely that many of these statements are not “conspicuous.” Further, they are definitely not “notifying” or “informing” patients about charity care.

Most hospital billing statements have a large font showing a patient’s options to pay in full or to enter a payment plan. These areas of the bill often include color and are in special call-out boxes. However, information about charity care is often vague and in small, non-obvious plain text. An example of a bill from a large hospital system’s website is attached as Addendum A. The statement about financial assistance is neither conspicuous nor informative.

Dollar For encourages the IRS to provide guidance that makes clear that statements about financial assistance should be as prominently displayed as any other information such as the price, and should be written to actually inform patients about financial assistance programs.

### **Artificial Deadline to Supplement an Application**

Many (if not most) hospitals impose an artificial deadline on patients to supplement a financial assistance application if their initial submission allegedly lacks any information. If the deadline is missed, then a patient’s application is denied. In many instances, patients are then told their denial is final, even if they are still within the statutorily mandated 240-day application window. These denials violate existing regulations.

501(r) directly addresses a situation where a patient submits some but not all required information for a financial assistance application. It states:

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<sup>18</sup> 26 CFR § 501(r)-4(b)(5)(D)(2)

If an individual who has submitted an incomplete FAP application during the application period subsequently completes the FAP application during the application period (or, if later, within a reasonable timeframe given to respond to requests for additional information and/or documentation), the individual will be considered to have submitted a complete FAP application during the application period, and the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it meets the requirements for complete FAP applications described in paragraph (c)(6) of this section.<sup>19</sup>

While the duration of the “application period” may be extended if the hospital does not provide specific notices at certain times, it may never be shorter than 240 days from the date the patient was sent their first post-discharge bill.<sup>20</sup> The term “incomplete FAP application” means if the patient provides the hospital “some, but not sufficient, information and documentation to determine FAP-eligibility.”<sup>21</sup>

As is evident from the above law, if a patient provides “some but not sufficient” information for a hospital to determine their eligibility, they are “considered to have submitted a complete FAP application” if the patient “subsequently completes the FAP application during the application period...”

Dollar For encourages the IRS to clarify in guidance that under no circumstances may a patient have fewer than 240 days from the date the patient is sent their first post-discharge bill to submit or complete an application.

## **Conclusion**

Medical debt has reached the point of being a public health crisis. It undercuts the good and heroic work that medical providers across the

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<sup>19</sup> 26 CFR § 501(r)-6(c)(5)(ii)

<sup>20</sup> 26 CFR § 501(r)(1)(b)(3); 26 CFR § 1.501(r)-6(c)(4)

<sup>21</sup> 26 CFR § 501(r)(b)(13)

country perform every day. Dollar For wants to thank the IRS for taking the time to consider these recommendations. The work to clarify how 501(r) regulations must be interpreted is good for patients and hospitals alike, and is sure to reduce the amount of medical debt currently keeping patients locked in the cycle of poverty and hurting health outcomes. Please do not hesitate to consider Dollar For a resource if we can provide any additional data, analysis, or assistance.

Very best,

A handwritten signature in black ink, appearing to read "Eli Rushbanks". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Eli Rushbanks  
Dollar For - General Counsel & Director of Policy

Cc:

Daniel.L.Werfel@irs.gov



# Addendum A

**CHI Franciscan**  
 PO Box 1259  
 Dept # 141529  
 Oaks, PA 19456

CARLOS RAMON  
 8720 MAGIC BUS CT  
 TACOMA, WA 98433

**Account Summary**

Statement Date	08/13/2020
Guarantor Name	CARLOS RAMON
Guarantor ID	1081747
Date(s) of Service	04/24/2020
Total Charges	\$750.00
Discount Amount	-\$450.00
Patient Payments	\$0.00
Total Adjustments	\$0.00
Amount You Now Owe	\$300.00
<b>Pay Monthly</b> (See below for options)	<b>\$72.10</b>

*Please see reverse side for further information*

Account(s) summary

**Let Us Help: You can start a monthly payment plan.**

You have been pre-qualified for a payment plan with Tacoma. **Simply make your first payment by 08/25/2020 to activate your 21 month payment plan.**

**Pay Monthly**  
 21 Payments  
**\$72.10**  
 Includes \$3.95 Service Fee

OR

**Pay In Full**  
**\$300.00**

**Payment Plan Offer (if eligible)**

**Payment coupon for offline payments**

**MyChart Activation Code**

Go to [mychart.catholichealth.net](http://mychart.catholichealth.net) to create an account and enter your Activation Code

**Activation Code: YN-CG1J-RW4S-KD**  
 You must make your first payment by 08/25/2020 to activate your payment plan - Please act now.

ALERT: CommonSpirit Health is offering temporary relief payment options to those whose financial situation has been impacted by the COVID-19 crisis. For more information please call 844-286-5546 or visit the website above.

**Contact Us:**  
 Questions About Your Bill: (888) 779-6380

You may be eligible for financial assistance. For more information please call (844) 286-5546 or go to: [www.chihealth.com/financial-assistance](http://www.chihealth.com/financial-assistance)

**Hospital Contact Information**

Please detach and return with your payment.

**CHI Franciscan**

Patient Name	Guarantor ID	Due Date
Carlos Ramon	1081747	08/25/2020

Please check box if address above is incorrect or insurance information has changed, and indicate change(s) on reverse side.

**Pay installment of \$72.10**  
 By paying monthly, I agree to the terms located at [mychart.catholichealth.net](http://mychart.catholichealth.net)

**Pay in full \$300.00**  
 Select accounts you are paying on back of the coupon

IF PAYING BY MASTERCARD, DISCOVER, VISA, OR AMERICAN EXPRESS, FILL OUT BELOW

<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> VISA	<input type="checkbox"/> DISCOVER	<input type="checkbox"/> AMERICAN EXPRESS	AMOUNT PAID HERE
CARD NUMBER				EXP. DATE (E.G. 11/15)
CARDHOLDER SIGNATURE				SECURITY CODE
CARDHOLDER NAME (please print)				CARDHOLDER PHONE #

**To Pay by Mail**

- include your account number on your check
- Make checks payable and remit to:

Franciscan Health System SBO  
 PO Box 31003-1975  
 Pasadena, CA 91110-1975

**000108174700000072109**

<sup>22</sup> Understanding Your Bill | VMFH. (n.d.). Virginia Mason. Retrieved December 5, 2024, from <https://www.vmfh.org/billing-insurance/understanding-your-bill>