

# Publications

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## HCPF Makes Clarifications to Mandatory Facility-Based Professionals' Reporting Requirements Under Colorado Hospital Discounted Care Law

### ***What is Colorado Hospital Discounted Care?***

Colorado's Hospital Discounted Care law, effective September 1, 2022, brought a detailed and comprehensive yet highly confounding overhaul to the way hospitals, freestanding emergency departments and on-campus hospital outpatient facilities screen, bill and collect for services furnished to eligible low-income individuals.

The law also impacts how health care professionals who perform facility-based services (such as radiologists, pathologists, anesthesiologists and any other Colorado licensees who perform services in a facility identified above ("facility-based professionals")) may bill and collect from their patients.

A unique factor that has increased the complexity of the Hospital Discounted Care law is the sheer volume of guidance the Colorado Department of Health Care Policy & Financing ("HCPF") has promulgated via the regularly updated Hospital Discounted Care Operations Manual.

At a high level, the Hospital Discounted Care law has five main elements:

1. Colorado health care facilities must screen insured Colorado resident patients who request screening and all uninsured patients for eligibility for public health insurance programs, Colorado Indigent Care Program (sunsetting June 30, 2025) and Hospital Discounted care.
2. Facilities must comply with various patient notice requirements that inform the public of the existence of Hospital Discounted Care.
3. Both health care facilities and Facility-Based Professionals are required to limit the amount they bill eligible patients for inpatient and outpatient hospital services and related professional services to no more than those rates identified by HCPF.
4. Health care facilities and Facility-Based Professionals must offer payment plans and limit their patient collections to amounts not to exceed 2-6% of an eligible patient's household income, depending on the billing party.

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5. There is a detailed annual HCPF reporting requirement to enable the agency to evaluate compliance with the law.

### ***What Has Changed for Facility-Based Professionals?***

The law was revised in 2024, with one of the most notable modifications being the requirement for Facility-Based Professionals **to begin complying with the reporting requirement as of September 1, 2025**. Facility-Based Professionals are expected to begin reporting data that HCPF determines is necessary to evaluate compliance across race, ethnicity, age and primary-language-spoken patient groups with the required discounted care, payment plan and collections practices.

Further, Facility-Based Professionals are expected to report this data on a disaggregated basis by race, ethnicity, age and primary language spoken. If a Facility-Based Professional is unable to make such a disaggregated report, they must identify the steps they are taking to improve race, ethnicity, age and primary-language-spoken data collection and the date by which they will be able to disaggregate the reported data.

### ***What are the Repercussions for Failing to Comply?***

HCPF has indicated it will be conducting periodic audits of Facility-Based Professionals to monitor compliance with the law. Violations of the Hospital Discounted Care law may result in corrective action plans or cumulative weekly fines up to \$15,000.

In addition to administrative enforcement, the Hospital Discounted Care law provides for a private right of action whereby a Facility-Based Professional who fails to comply with the statutory limits on collections actions may be liable to a patient in the amount of the actual damages sustained plus additional damages of up to \$1,000. Markedly, the law also permits affected patients to pursue class action litigation against Facility-Based Professionals who are alleged to be out of compliance with the law.

### ***HCPF Issues New Guidance on the Reporting Requirement***

As we rapidly approach the initial Facility-Based Professionals reporting deadline, HCPF has issued new guidance for Providers. In the revised Hospital Discounted Care Operations Manual dated April 1, 2025, HCPF clarified that the reporting requirement applies only to non-facility-employed Facility-Based Professionals. HCPF also identified that the initial reporting requirement would cover the previous state fiscal year, which ran from July 1, 2024, to June 30, 2025.

The manual also expands on the statutory reporting requirement language by identifying the following specific data points that Facility-Based Professionals must include in their initial and ongoing reports:

- Data by patient groups that include race, ethnicity, age, primary language spoken and insurance status for the following areas but not limited to:
  - Number of visits for patients under discounted care;
  - Number of admissions for patients under discounted care;
  - Received a payment plan;
  - Total number of payment plans created;
  - Paid the payment plan in full prior to the cumulative thirty-six months of payments or payment plan paid in full due to cumulative thirty-six months of payments reached;
  - Sent to collections and for what physician/service;
  - Number of total accounts sent to collections;

- Minimum, maximum, and median of the account balances sent to collections;
- Charges, billed amounts and write off charges;
- Total provider charges;
- Allowable billed amounts;
- Third party payments;
- Total payment amounts due from patients with established payment plans, and
- Write off charges (difference between total charges, third party payments and established payment plans).

Polsinelli's Denver-based Health Care Operations team has deep experience working with the Hospital Discounted Care law on behalf of clients and will continue to monitor these developments. If you have any questions about how these changes may impact you or your organization, please feel free to reach out to Jasmine C. González or your regular Polsinelli attorney.