

# STATE OF NEW YORK

1366--A

Cal. No. 620

2023-2024 Regular Sessions

## IN SENATE

January 11, 2023

Introduced by Sens. RIVERA, CLEARE, GALLIVAN, GONZALEZ, GOUNARDES, HARCKHAM, HOYLMAN-SIGAL, JACKSON, KRUEGER, LIU, MAY, MYRIE, PERSAUD, SALAZAR, SEPULVEDA, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to the general hospital indigent care pool; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 9 of section 2807-k of the public health law, as amended by section 17 of part B of chapter 60 of the laws of 2014, is amended to read as follows:

9. In order for a general hospital to participate in the distribution of funds from the pool, the general hospital must ~~[implement minimum collection policies and procedures approved]~~ utilize only a uniform financial assistance policy and form developed and provided by the [commissioner] department. All general hospitals that do not participate in the indigent care pool shall also utilize only the uniform financial assistance policy and form and otherwise comply with subdivision nine-a of this section governing the provision of financial assistance and hospital collection procedures.

§ 1-a. Subdivision 9 of section 2807-k of the public health law, as amended by section 1 of subpart C of part Y of chapter 57 of the laws of 2023, is amended to read as follows:

9. In order for a general hospital to participate in the distribution of funds from the pool, the general hospital must ~~[implement minimum collection policies and procedures approved by the commissioner, utilizing]~~ utilize only a uniform financial assistance policy and form devel-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ~~[-]~~ is old law to be omitted.

LBD02400-03-3

oped and provided by the department. All general hospitals that do not participate in the indigent care pool shall also utilize only the uniform financial assistance policy and form and otherwise comply with subdivision nine-a of this section governing the provision of financial assistance and hospital collection procedures.

§ 2. Subdivision 9-a of section 2807-k of the public health law, as added by section 39-a of part A of chapter 57 of the laws of 2006, paragraph (k) as added by section 43 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

9-a. (a) (i) As a condition for participation in pool distributions authorized pursuant to this section and section twenty-eight hundred seven-w of this article for periods on and after January first, two thousand nine, general hospitals shall, effective for periods on and after January first, two thousand seven, establish financial [aid] assistance policies and procedures, in accordance with the provisions of this subdivision, for reducing hospital charges otherwise applicable to low-income individuals [~~without health insurance, or who have exhausted their health insurance benefits, and~~] who can demonstrate an inability to pay full charges, and also, at the hospital's discretion, for reducing or discounting the collection of co-pays and deductible payments from those individuals who can demonstrate an inability to pay such amounts. Immigration status shall not be an eligibility criterion for the purpose of determining financial assistance under this section.

(ii) A general hospital may use the New York state of health marketplace eligibility determination page to establish the patient's household income and residency in lieu of the financial application form, provided it has secured the consent of the patient. A general hospital shall not require a patient to apply for coverage through the New York state of health marketplace in order to receive care or financial assistance.

(iii) Upon submission of a completed application form, the patient is not liable for any bills and no interest may accrue until the general hospital has rendered a decision on the application in accordance with this subdivision.

(b) [~~Such~~] The reductions from charges for [~~uninsured~~] patients described in paragraph (a) of this subdivision with incomes below [~~at least three~~] six hundred percent of the federal poverty level shall result in a charge to such individuals that does not exceed [~~the greater of~~] the amount that would have been paid for the same services [~~by the "highest volume payer" for such general hospital as defined in subparagraph (v) of this paragraph, or for services provided pursuant to title XVIII of the federal social security act (medicare), or for services~~] provided pursuant to title [~~XIX~~] XVIII of the federal social security act (medicaid), and provided further that such [~~amounts~~] amount shall be adjusted according to income level as follows:

(i) For patients with incomes at or below [~~at least one~~] two hundred percent of the federal poverty level, the hospital shall [~~collect no more than a nominal payment amount, consistent with guidelines established by the commissioner~~] waive all charges. No nominal payment shall be collected;

(ii) For patients with incomes [~~between at least one~~] above two hundred [~~one~~] percent and [~~one~~] up to four hundred [~~fifty~~] percent of the federal poverty level, the hospital shall collect no more than the amount identified after application of a proportional sliding fee schedule under which patients with lower incomes shall pay the lowest amount. [~~Such~~] The schedule shall provide that the amount the hospital may

1 collect for ~~[such patients]~~ the patient increases from the nominal  
2 amount described in subparagraph (i) of this paragraph in equal incre-  
3 ments as the income of the patient increases, up to a maximum of twenty  
4 percent of the ~~[greater of the]~~ amount that would have been paid for the  
5 same services ~~[by the "highest volume payer" for such general hospital,~~  
6 ~~as defined in subparagraph (v) of this paragraph, or for services~~  
7 ~~provided pursuant to title XVIII of the federal social security act~~  
8 ~~(medicare) or for services]~~ provided pursuant to title ~~[XIX]~~ XVIII of  
9 the federal social security act (medicaid);

10 (iii) ~~[For patients with incomes between at least one hundred fifty-~~  
11 ~~one percent and two hundred fifty percent of the federal poverty level,~~  
12 ~~the hospital shall collect no more than the amount identified after~~  
13 ~~application of a proportional sliding fee schedule under which patients~~  
14 ~~with lower income shall pay the lowest amounts. Such schedule shall~~  
15 ~~provide that the amount the hospital may collect for such patients~~  
16 ~~increases from the twenty percent figure described in subparagraph (ii)~~  
17 ~~of this paragraph in equal increments as the income of the patient~~  
18 ~~increases, up to a maximum of the greater of the amount that would have~~  
19 ~~been paid for the same services by the "highest volume payer" for such~~  
20 ~~general hospital, as defined in subparagraph (v) of this paragraph, or~~  
21 ~~for services provided pursuant to title XVIII of the federal social~~  
22 ~~security act (medicare) or for services provided pursuant to title XIX~~  
23 ~~of the federal social security act (medicaid); and~~

24 (iv)] For patients with incomes ~~[between at least two hundred fifty-~~  
25 ~~one percent and three hundred]~~ above four hundred percent and up to six  
26 hundred percent of the federal poverty level, the hospital shall collect  
27 no more than the ~~[greater of the]~~ amount that would have been paid for  
28 the same services ~~[by the "highest volume payer" for such general hospi-~~  
29 ~~tal as defined in subparagraph (v) of this paragraph, or for services~~  
30 ~~provided pursuant to title XVIII of the federal social security act~~  
31 ~~(medicare), or for services]~~ provided pursuant to title ~~[XIX]~~ XVIII of  
32 the federal social security act (medicaid).

33 [(v) For the purposes of this paragraph, "highest volume payer" shall  
34 mean the insurer, corporation or organization licensed, organized or  
35 certified pursuant to article thirty-two, forty-two or forty-three of  
36 the insurance law or article forty-four of this chapter, or other third-  
37 party payer, which has a contract or agreement to pay claims for  
38 services provided by the general hospital and incurred the highest  
39 volume of claims in the previous calendar year.

40 (vi) A hospital may implement policies and procedures to permit, but  
41 not require, consideration on a case by case basis of exceptions to the  
42 requirements described in subparagraphs (i) and (ii) of this paragraph  
43 based upon the existence of significant assets owned by the patient that  
44 should be taken into account in determining the appropriate payment  
45 amount for that patient's care, provided, however, that such proposed  
46 policies and procedures shall be subject to the prior review and  
47 approval of the commissioner and, if approved, shall be included in the  
48 hospital's financial assistance policy established pursuant to this  
49 section, and provided further that, if such approval is granted, the  
50 maximum amount that may be collected shall not exceed the greater of the  
51 amount that would have been paid for the same services by the "highest  
52 volume payer" for such general hospital as defined in subparagraph (v)  
53 of this paragraph, or for services provided pursuant to title XVIII of  
54 the federal social security act (medicare), or for services provided  
55 pursuant to title XIX of the federal social security act (medicaid). In  
56 the event that a general hospital reviews a patient's assets in deter-

~~mining payment adjustments such policies and procedures shall not consider as assets a patient's primary residence, assets held in a tax deferred or comparable retirement savings account, college savings accounts, or cars used regularly by a patient or immediate family members.~~

~~(vii)~~ (c) Nothing in this ~~[paragraph]~~ subdivision shall be construed to limit a hospital's ability to establish patient eligibility for payment discounts at income levels higher than those specified herein and/or to provide greater payment discounts for eligible patients than those required by this ~~[paragraph]~~ subdivision.

~~(e)~~ (d) Such policies and procedures shall be clear, understandable, in writing and publicly available in summary form ~~[and each].~~ Each general hospital participating in the pool shall ensure that every patient is made aware of the existence of ~~[such]~~ the policies and procedures and is provided, in a timely manner, with a summary and a copy of ~~[such policies and procedures upon request]~~ the policy and form at intake, admission and discharge. Any summary provided to patients shall, at a minimum, include, in plain language, specific information as to income levels used to determine eligibility for assistance, ~~[a description of the primary service area of the hospital]~~ financial assistance available and the means of applying for assistance. ~~[For general hospitals with twenty four hour emergency departments, such policies and procedures]~~ A plain language summary of the collections process must also be made available. A general hospital shall ~~[require the notification of patients]~~ notify patients by providing written materials to patients or their authorized representatives during the intake and registration process, by making materials available in conspicuous locations in the hospital including emergency departments, waiting areas and other places patients congregate, through the conspicuous posting of language-appropriate information in the general hospital, and by including information on bills and statements sent to patients, that financial ~~[aid]~~ assistance may be available to qualified patients and how to obtain further information. ~~[For specialty hospitals without twenty four hour emergency departments, such notification shall take place through written materials provided to patients during the intake and registration process prior to the provision of any health care services or procedures, and through information on bills and statements sent to patients, that financial aid may be available to qualified patients and how to obtain further information. Application materials shall include a notice to patients that upon submission of a completed application, including any information or documentation needed to determine the patient's eligibility pursuant to the hospital's financial assistance policy, the patient may disregard any bills until the hospital has rendered a decision on the application in accordance with this paragraph]~~ General hospitals shall post the financial assistance application policy, procedures and form, and a summary of the policy and procedures and collection process, in a conspicuous location and downloadable form on the general hospital's website.

~~(d)~~ (e) The hospital's application materials shall include a notice to patients that upon submission of a completed application form, the patient shall not be liable for any bills until the general hospital has rendered a decision on the application in accordance with this subdivision. The application materials shall include specific information as the income levels used to determine eligibility for financial assistance, a description of the primary service area of the hospital and the means to apply for assistance. Nothing in this subdivision shall

1 be construed as precluding the use of presumptive eligibility determi-  
2 nations by hospitals on behalf of patients. The policies and procedures  
3 shall include clear, objective criteria for determining a patient's  
4 ability to pay and for providing such adjustments to payment require-  
5 ments as are necessary. In addition to adjustment mechanisms such as  
6 sliding fee schedules and discounts to fixed standards, such policies  
7 and procedures shall also provide for the use of installment plans for  
8 the payment of outstanding balances by patients pursuant to the  
9 provisions of the hospital's financial assistance policy. The monthly  
10 payment under such a plan shall not exceed [~~ten~~] five percent of the  
11 gross monthly income of the patient[, ~~provided, however, that if patient~~  
12 ~~assets are considered under such a policy, then patient assets which are~~  
13 ~~not excluded assets pursuant to subparagraph (vi) of paragraph (b) of~~  
14 ~~this subdivision may be considered in addition to the limit on monthly~~  
15 ~~payments~~]. Installment plan payments may not be required to begin before  
16 one hundred eighty days after the date of the service or discharge,  
17 whichever is later. The policy shall allow the patient and the hospital  
18 to mutually agree to modify the terms of an installment plan. The rate  
19 of interest charged to the patient on the unpaid balance, if any, shall  
20 not exceed [~~the rate for a ninety-day security issued by the United~~  
21 ~~States Department of Treasury, plus .5 percent~~] two percentum per annum  
22 and no plan shall include an accelerator or similar clause under which a  
23 higher rate of interest is triggered upon a missed payment. [~~If such~~]  
24 The policies and procedures shall not include a requirement of a deposit  
25 prior to [~~non-emergent,~~] medically-necessary care[, ~~such deposit must be~~  
26 ~~included as part of any financial aid consideration~~]. The hospital  
27 shall refund any payments made by the patient before the determination  
28 of eligibility for financial assistance that exceeds the patient's  
29 liability after discounts are applied. Such policies and procedures  
30 shall be applied consistently to all eligible patients.  
31 [~~(e) Such policies and procedures shall permit patients to~~] (f) In any  
32 legal action by or on behalf of a hospital to collect a medical debt,  
33 the complaint shall be accompanied by an affidavit by the hospital's  
34 chief financial officer stating that the hospital has taken reasonable  
35 steps to determine whether the patient qualifies for financial assist-  
36 ance and upon information and belief the patient does not meet the  
37 income or residency criteria for financial assistance. Patients may  
38 apply for financial assistance [~~within at least ninety days of the date~~  
39 ~~of discharge or date of service and provide at least twenty days for~~  
40 ~~patients to submit a completed application~~] at any time during the  
41 collection process, including after the commencement of a medical debt  
42 court action or upon the plaintiff obtaining a default judgment. A  
43 determination that a patient is eligible for financial assistance shall  
44 be valid for a minimum of twelve months and will apply to all outstand-  
45 ing medical bills. A hospital may use credit scoring software for the  
46 purposes of establishing income eligibility and approving financial  
47 assistance, but only if the hospital makes clear to the patient that  
48 providing a social security number is not mandatory and the scoring does  
49 not negatively impact the patient's credit score. However, credit scor-  
50 ing software shall not be solely relied upon by the hospital in denying  
51 a patient's application for financial assistance. Further, propensity to  
52 pay scores may not disqualify patients who otherwise qualify for eligi-  
53 bility from receiving financial assistance. [~~Such~~] The policies and  
54 procedures [~~may require that~~] shall allow patients seeking [~~payment~~  
55 ~~adjustments~~] financial assistance to provide [~~appropriate~~] the following  
56 financial information and documentation in support of their applica-



tion~~[, provided, however, that such application process shall not be~~  
~~unduly burdensome or complex]~~: pay checks or pay stubs; unemployment  
documentation; social security income; rent receipts; a letter from the  
patient's employer attesting to the patient's gross income; documenta-  
tion of eligibility for other means-tested government benefits; or, if  
none of the aforementioned information and documentation are available,  
a written self-attestation of the patient's income may be used. General  
hospitals ~~[shall, upon request,]~~ must take reasonable steps to assist  
patients in understanding the hospital's application and form, policies  
and procedures and in applying for payment adjustments. Application  
forms shall be printed and posted to its website in the "primary  
languages" of patients served by the general hospital. For the purposes  
of this paragraph, "primary languages" shall include any language that  
is either (i) used to communicate, during at least five percent of  
patient visits in a year, by patients who cannot speak, read, write or  
understand the English language at the level of proficiency necessary  
for effective communication with health care providers, or (ii) spoken  
by ~~[non-English]~~ limited-English speaking individuals comprising more  
than one percent of the primary hospital service area population, as  
calculated using demographic information available from the United  
States Bureau of the Census, supplemented by data from school systems.  
Decisions regarding such applications shall be made within thirty days  
of receipt of a completed application. ~~[such]~~ The policies and proce-  
dures shall require that the hospital issue any ~~[denial/approval]~~ denial  
or approval of ~~[such]~~ the application in writing which clearly communi-  
cates the amount of assistance granted, any amounts still owed with  
information on how to appeal the ~~[denial]~~ decision and shall require the  
hospital to establish an appeals process under which it will evaluate  
the ~~[denial of]~~ decision about an application. ~~[Nothing in this subdivi-~~  
~~sion shall be interpreted as prohibiting a hospital from making the~~  
~~availability of financial assistance contingent upon the patient first~~  
~~applying for coverage under title XIX of the social security act (medi-~~  
~~caid) or another insurance program if, in the judgment of the hospital,~~  
~~the patient may be eligible for medicaid or another insurance program,~~  
~~and upon the patient's cooperation in following the hospital's financial~~  
~~assistance application requirements, including the provision of informa-~~  
~~tion needed to make a determination on the patient's application in~~  
~~accordance with the hospital's financial assistance policy]~~ Nothing in  
this subdivision shall prevent a hospital from informing and assisting a  
patient with an application for health insurance coverage with a local  
services district or the marketplace. A hospital shall not make the  
availability of financial assistance contingent upon the patient's  
application for health insurance coverage. The hospital shall inform  
patients on how to file a complaint against the hospital or a debt  
collector that is contracted on behalf of the hospital regarding the  
patient's bill. General hospitals are required to take reasonable meas-  
ures to determine if a patient is eligible for financial assistance  
including prior to making a referral to a third-party debt collector or  
other extraordinary collections measures.

~~[(f) Such]~~ (g) The policies and procedures shall provide that patients  
with incomes below ~~[three]~~ six hundred percent of the federal poverty  
level are deemed ~~[presumptively]~~ eligible for payment adjustments and  
shall conform to the requirements set forth in paragraph (b) of this  
subdivision, provided, however, that nothing in this subdivision shall  
be interpreted as precluding hospitals from extending such payment  
adjustments to other patients, either generally or on a case-by-case

1 basis. ~~[Such policies and procedures shall provide financial aid for~~  
2 ~~emergency hospital services, including emergency transfers pursuant to~~  
3 ~~the federal emergency medical treatment and active labor act (42 USC~~  
4 ~~1395dd), to patients who reside in New York state and for medically~~  
5 ~~necessary hospital services for patients who reside in the hospital's~~  
6 ~~primary service area as determined according to criteria established by~~  
7 ~~the commissioner. In developing such criteria, the commissioner shall~~  
8 ~~consult with representatives of the hospital industry, health care~~  
9 ~~consumer advocates and local public health officials. Such criteria~~  
10 ~~shall be made available to the public no less than thirty days prior to~~  
11 ~~the date of implementation and shall, at a minimum,~~

12 ~~(i) prohibit a hospital from developing or altering its primary~~  
13 ~~service area in a manner designed to avoid medically underserved commu-~~  
14 ~~nities or communities with high percentages of uninsured residents;~~

15 ~~(ii) ensure that every geographic area of the state is included in at~~  
16 ~~least one general hospital's primary service area so that eligible~~  
17 ~~patients may access care and financial assistance; and~~

18 ~~(iii) require the hospital to notify the commissioner upon making any~~  
19 ~~change to its primary service area, and to include a description of its~~  
20 ~~primary service area in the hospital's annual implementation report~~  
21 ~~filed pursuant to subdivision three of section twenty-eight hundred~~  
22 ~~three-1 of this article.~~

23 ~~(g) Nothing in this subdivision shall be interpreted as precluding~~  
24 ~~hospitals from extending payment adjustments for medically necessary~~  
25 ~~non-emergency hospital services to patients outside of the hospital's~~  
26 ~~primary service area.]~~ For patients determined to be eligible for finan-

27 cial ~~[aid]~~ assistance under the terms of a hospital's financial ~~[aid]~~  
28 assistance policy, ~~[such]~~ the policies and procedures shall prohibit any  
29 limitations on financial ~~[aid]~~ assistance for services based on the  
30 medical condition of the applicant, other than typical limitations or  
31 exclusions based on medical necessity or the clinical or therapeutic  
32 benefit of a procedure or treatment.

33 (h) ~~[Such policies and procedures shall not permit the forced]~~ A  
34 hospital or its agent shall not issue, authorize or permit an income  
35 execution of a patient's wages, secure a lien or force a sale or fore-  
36 closure of a patient's primary residence in order to collect an  
37 outstanding medical bill and shall ~~[require the hospital to refrain from~~  
38 ~~sending]~~ not send an account to collection if the patient has submitted  
39 a completed application for financial ~~[aid, including any required~~  
40 ~~supporting documentation]~~ assistance, while the hospital determines the  
41 patient's eligibility for ~~[such aid]~~ financial assistance. ~~[Such]~~ The  
42 policies and procedures shall provide for written notification, which  
43 shall include notification on a patient bill, to a patient not less than  
44 thirty days prior to the referral of debts for collection and shall  
45 require that the collection agency obtain the hospital's written consent  
46 prior to commencing a legal action. ~~[Such]~~ The policies and procedures  
47 shall require all general hospital staff who interact with patients or  
48 have responsibility for billing and collections to be trained in ~~[such]~~  
49 the policies and procedures, and require the implementation of a mech-  
50 anism for the general hospital to measure its compliance with ~~[such]~~ the  
51 policies and procedures. ~~[Such]~~ The policies and procedures shall  
52 require that any collection agency, lawyer or firm under contract with a  
53 general hospital for the collection of debts follow the hospital's  
54 financial assistance policy, including providing information to patients  
55 on how to apply for financial assistance where appropriate. ~~[Such]~~ The  
56 policies and procedures shall prohibit collections from a patient who is

determined to be eligible for medical assistance [~~pursuant to title XIX of the federal social security act~~] under title eleven of article five of the social services law at the time services were rendered and for which services medicaid payment is available.

(i) Reports required to be submitted to the department by each general hospital as a condition for participation in the pools[~~, and which contain, in accordance with applicable regulations,~~] shall contain: (i) a certification from an independent certified public accountant or independent licensed public accountant or an attestation from a senior official of the hospital that the hospital is in compliance with conditions of participation in the pools[~~, shall also contain, for reporting periods on and after January first, two thousand seven,~~];

[~~(i)~~] (ii) a report on hospital costs incurred and uncollected amounts in providing services to [~~eligible~~] patients [~~without insurance~~] found eligible for financial assistance, including the amount of care provided for [~~a nominal payment amount~~] patients under two hundred percent poverty, during the period covered by the report;

[~~(ii)~~] (iii) hospital costs incurred and uncollected amounts for deductibles and coinsurance for eligible patients with insurance or other third-party payor coverage;

[~~(iii)~~] (iv) the number of patients, organized according to United States postal service zip code, race, ethnicity and gender, who applied for financial assistance [~~pursuant to~~] under the hospital's financial assistance policy, and the number, organized according to United States postal service zip code, race, ethnicity and gender, whose applications were approved and whose applications were denied;

[~~(iv)~~] (v) the reimbursement received for indigent care from the pool established [~~pursuant to~~] under this section;

[~~(v)~~] (vi) the amount of funds that have been expended on [~~charity care~~] financial assistance from charitable bequests made or trusts established for the purpose of providing financial assistance to patients who are eligible in accordance with the terms of [~~such~~] the bequests or trusts;

[~~(vi)~~] (vii) for hospitals located in social services districts in which the district allows hospitals to assist patients with such applications, the number of applications for eligibility for medicaid under title [~~XIX of the social security act (medicaid)~~] eleven of article five of the social services law that the hospital assisted patients in completing and the number denied and approved;

[~~(vii)~~] (viii) the hospital's financial losses resulting from services provided under medicaid; and

[~~(viii)~~] (ix) the number of referrals to collection agents or contracted external collection vendors, court cases and liens placed on [~~the primary~~] any residences of patients through the collection process used by a hospital.

(j) Within ninety days of the effective date of the chapter of the laws of two thousand twenty-three which amended this subdivision each hospital shall submit to the commissioner a written report on its policies and procedures for financial assistance to patients which are used by the hospital [~~on the~~] as of such effective date [~~of this subdivision~~]. Such report shall include copies of its policies and procedures, including material which is distributed to patients, and a description of the hospital's financial aid policies and procedures. Such description shall include the income levels of patients on which eligibility is based, the financial aid eligible patients receive and the



1 means of calculating such aid, and the service area, if any, used by the  
2 hospital to determine eligibility.

3 (k) The commissioner shall include the data collected under paragraph  
4 (i) of this subdivision in regular audits of the annual general hospital  
5 institutional cost report.

6 (l) In the event [~~it is determined by the commissioner that~~] the state  
7 [~~will be~~] is unable to secure all necessary federal approvals to  
8 include, as part of the state's approved state plan under title nineteen  
9 of the federal social security act, a requirement[~~, as set forth in~~  
10 ~~paragraph one of this subdivision,~~] that compliance with this subdivi-  
11 sion is a condition of participation in pool distributions authorized  
12 pursuant to this section and section twenty-eight hundred seven-w of  
13 this article, then such condition of participation shall be deemed null  
14 and void [~~and, notwithstanding~~]. Notwithstanding section twelve of this  
15 chapter, failure to comply with [~~the provisions of~~] this subdivision by  
16 a general hospital [~~on and after the date of such determination~~] shall  
17 make [~~such~~] the hospital liable for a civil penalty not to exceed ten  
18 thousand dollars for each [~~such~~] violation. The imposition of [~~such~~] the  
19 civil penalties shall be subject to [~~the provisions of~~] section twelve-a  
20 of this chapter.

21 (m) A hospital or its collection agents shall not report adverse  
22 information about a patient to a consumer or financial reporting entity.  
23 A hospital or its collection agent shall not commence a civil action  
24 against a patient or delegate a collection activity to a debt collector  
25 for nonpayment for one hundred eighty days after the first post-service  
26 bill is issued and until a hospital has made reasonable efforts to  
27 determine whether a patient qualifies for financial assistance. A hospi-  
28 tal shall not commence a civil action against a patient or delegate a  
29 collection activity to a debt collector, if: the hospital was notified  
30 that an appeal or a review of a health insurance decision is pending  
31 within the immediately preceding sixty days; or the patient has a pend-  
32 ing application for or qualified for financial assistance.

33 § 3. Subdivision 9-a of section 2807-k of the public health law, as  
34 amended by section two of this act, is amended to read as follows:

35 9-a. (a) (i) As a condition for participation in pool distributions  
36 authorized pursuant to this section and section twenty-eight hundred  
37 seven-w of this article for periods on and after January first, two  
38 thousand nine, general hospitals shall, effective for periods on and  
39 after January first, two thousand [~~seven, establish~~] twenty-five, adopt  
40 and implement the uniform financial assistance [~~policies and procedures,~~  
41 ~~in accordance with the provisions of this subdivision,~~] form and policy,  
42 to be developed and issued by the commissioner. General hospitals shall  
43 implement the uniform policy and form for reducing hospital charges  
44 otherwise applicable to low-income individuals who can demonstrate an  
45 inability to pay full charges, and also, at the hospital's discretion,  
46 for reducing or discounting the collection of co-pays and deductible  
47 payments from those individuals who can demonstrate an inability to pay  
48 such amounts. Immigration status shall not be an eligibility criterion  
49 for the purpose of determining financial assistance under this section.  
50 As used in this section, "affiliated provider" means a provider that is:  
51 (A) employed by the hospital; (B) under a professional services agree-  
52 ment with the hospital; or (C) a clinical faculty member of a medical  
53 school or other school that trains individuals to be providers and that  
54 is affiliated with the hospital or health system.

55 (ii) A general hospital may use the New York state of health market-  
56 place eligibility determination page to establish the patient's house-

1 hold income and residency in lieu of the financial application form,  
2 provided it has secured the consent of the patient. A general hospital  
3 shall not require a patient to apply for coverage through the New York  
4 state of health marketplace in order to receive care or financial  
5 assistance.

6 (iii) Upon submission of a completed application form, the patient is  
7 not liable for any bills and no interest may accrue until the general  
8 hospital has rendered a decision on the application in accordance with  
9 this subdivision.

10 (b) The reductions from charges for patients described in paragraph  
11 (a) of this subdivision with incomes below six hundred percent of the  
12 federal poverty level shall result in a charge to such individuals that  
13 does not exceed the amount that would have been paid for the same  
14 services provided pursuant to title XVIII of the federal social security  
15 act (medicaid), and provided further that such amount shall be adjusted  
16 according to income level as follows:

17 (i) For patients with incomes at or below two hundred percent of the  
18 federal poverty level, the hospital shall waive all charges. No nominal  
19 payment shall be collected;

20 (ii) For patients with incomes above two hundred percent and up to  
21 four hundred percent of the federal poverty level, the hospital shall  
22 collect no more than the amount identified after application of a  
23 proportional sliding fee schedule under which patients with lower  
24 incomes shall pay the lowest amount. The schedule shall provide that  
25 the amount the hospital may collect for the patient increases from the  
26 nominal amount described in subparagraph (i) of this paragraph in equal  
27 increments as the income of the patient increases, up to a maximum of  
28 twenty percent of the amount that would have been paid for the same  
29 services provided pursuant to title XVIII of the federal social security  
30 act (medicaid);

31 (iii) For patients with incomes above four hundred percent and up to  
32 six hundred percent of the federal poverty level, the hospital shall  
33 collect no more than the amount that would have been paid for the same  
34 services provided pursuant to title XVIII of the federal social security  
35 act (medicaid).

36 (c) Nothing in this subdivision shall be construed to limit a hospi-  
37 tal's ability to establish patient eligibility for payment discounts at  
38 income levels higher than those specified herein and/or to provide  
39 greater payment discounts for eligible patients than those required by  
40 this subdivision.

41 (d) [~~Such policies and procedures shall be clear, understandable, in~~  
42 ~~writing and publicly available in summary form.~~] Each general hospital  
43 participating in the pool shall ensure that every patient is made aware  
44 of the existence of [~~the policies and procedures~~] the uniform financial  
45 assistance form and policy and is provided, in a timely manner, with [~~a~~  
46 ~~summary and~~] a copy of the policy and form at intake, admission and  
47 discharge. [~~Any summary provided to patients shall, at a minimum,~~  
48 ~~include, in plain language, specific information as to income levels~~  
49 ~~used to determine eligibility for assistance, financial assistance avail-~~  
50 ~~able and the means of applying for assistance.~~] A plain language summary  
51 of the collections process must also be made available. A general hospi-  
52 tal shall notify patients by providing written materials to patients or  
53 their authorized representatives during the intake and registration  
54 process, by making materials available in conspicuous locations in the  
55 hospital including emergency departments, waiting areas and other places  
56 patients congregate, through the conspicuous posting of language-appro-

1 priate information in the general hospital, and by including information  
2 on bills and statements sent to patients, that financial assistance may  
3 be available to qualified patients and how to obtain further informa-  
4 tion. General hospitals shall post the uniform financial assistance  
5 application policy[~~, procedures~~] and form, and a summary of the policy  
6 [~~and procedures~~] and collection process, in a conspicuous location and  
7 downloadable form on the general hospital's website. The commissioner  
8 shall post the uniform financial assistance form and policy in download-  
9 able form on the department's hospital profile page or any successor  
10 website.

11 (e) The [~~hospital's~~] commissioner shall provide application materials  
12 to general hospitals, including the uniform financial assistance appli-  
13 cation form and policy. These application materials shall include a  
14 notice to patients that upon submission of a completed application form,  
15 the patient shall not be liable for any bills until the general hospital  
16 has rendered a decision on the application in accordance with this  
17 subdivision. The application materials shall include specific informa-  
18 tion as the income levels used to determine eligibility for financial  
19 assistance[~~, a description of the primary service area of the hospital~~]  
20 and the means to apply for assistance. Nothing in this subdivision shall  
21 be construed as precluding the use of presumptive eligibility determi-  
22 nations by hospitals on behalf of patients. The [~~policies and proce-~~  
23 ~~dures~~] uniform application form and policy shall include clear, objec-  
24 tive criteria for determining a patient's ability to pay and for  
25 providing such adjustments to payment requirements as are necessary. In  
26 addition to adjustment mechanisms such as sliding fee schedules and  
27 discounts to fixed standards, [~~such policies and procedures~~] the uniform  
28 policy shall also provide for the use of installment plans for the  
29 payment of outstanding balances by patients [~~pursuant to the provisions~~  
30 ~~of the hospital's financial assistance policy~~]. The monthly payment  
31 under such a plan shall not exceed five percent of the gross monthly  
32 income of the patient. Installment plan payments may not be required to  
33 begin before one hundred eighty days after the date of the service or  
34 discharge, whichever is later. The policy shall allow the patient and  
35 the hospital to mutually agree to modify the terms of an installment  
36 plan. The rate of interest charged to the patient on the unpaid  
37 balance, if any, shall not exceed two percentum per annum and no plan  
38 shall include an accelerator or similar clause under which a higher rate  
39 of interest is triggered upon a missed payment. The [~~policies and~~  
40 ~~procedures~~] uniform policy shall not include a requirement of a deposit  
41 prior to medically-necessary care. The hospital shall refund any  
42 payments made by the patient before the determination of eligibility for  
43 financial assistance that exceeds the patient's liability after  
44 discounts are applied. Such policies and procedures shall be applied  
45 consistently to all eligible patients.

46 (f) In any legal action by or on behalf of a hospital to collect a  
47 medical debt, the complaint shall be accompanied by an affidavit by the  
48 hospital's chief financial officer stating that the hospital has taken  
49 reasonable steps to determine whether the patient qualifies for finan-  
50 cial assistance and upon information and belief the patient does not  
51 meet the income or residency criteria for financial assistance. Patients  
52 may apply for financial assistance at any time during the collection  
53 process, including after the commencement of a medical debt court action  
54 or upon the plaintiff obtaining a default judgment. A determination  
55 that a patient is eligible for financial assistance shall be valid for a  
56 minimum of twelve months and will apply to all outstanding medical

1 bills. A hospital may use credit scoring software for the purposes of  
2 establishing income eligibility and approving financial assistance, but  
3 only if the hospital makes clear to the patient that providing a social  
4 security number is not mandatory and the scoring does not negatively  
5 impact the patient's credit score. However, credit scoring software  
6 shall not be solely relied upon by the hospital in denying a patient's  
7 application for financial assistance. Further, propensity to pay scores  
8 may not disqualify patients who otherwise qualify for eligibility from  
9 receiving financial assistance. Further, propensity to pay scores shall  
10 not disqualify patients who otherwise qualify for eligibility from  
11 receiving financial assistance. The [~~policies and procedures~~] uniform  
12 policy and form policies and procedures shall allow patients seeking  
13 financial assistance to provide the following financial information and  
14 documentation in support of their application: pay checks or pay stubs;  
15 unemployment documentation; social security income; rent receipts; a  
16 letter from the patient's employer attesting to the patient's gross  
17 income; documentation of eligibility for other means-tested government  
18 benefits; or, if none of the aforementioned information and documenta-  
19 tion are available, a written self-attestation of the patient's income  
20 may be used. General hospitals must take reasonable steps to assist  
21 patients in understanding the hospital's application and form, policies  
22 and procedures and in applying for payment adjustments. [~~Application~~  
23 ~~forms shall be printed and posted~~] The commissioner shall translate the  
24 uniform financial assistance application form and policy into the  
25 "primary languages" of each general hospital. Each general hospital  
26 shall print and post these materials to its website in the "primary  
27 languages" of patients served by the general hospital. For the purposes  
28 of this paragraph, "primary languages" shall include any language that  
29 is either (i) used to communicate, during at least five percent of  
30 patient visits in a year, by patients who cannot speak, read, write or  
31 understand the English language at the level of proficiency necessary  
32 for effective communication with health care providers, or (ii) spoken  
33 by limited-English speaking individuals comprising more than one percent  
34 of the primary hospital service area population, as calculated using  
35 demographic information available from the United States Bureau of the  
36 Census, supplemented by data from school systems. Decisions regarding  
37 such applications shall be made within thirty days of receipt of a  
38 completed application. The [~~policies and procedures~~] uniform financial  
39 assistance policy shall require that the hospital issue any denial or  
40 approval of the application in writing which clearly communicates the  
41 amount of assistance granted, any amounts still owed with information on  
42 how to appeal the decision and shall require the hospital to establish  
43 an appeals process under which it will evaluate the decision about an  
44 application. Nothing in this subdivision shall prevent a hospital from  
45 informing and assisting a patient with an application for health insur-  
46 ance coverage with a local services district or the marketplace. A  
47 hospital shall not make the availability of financial assistance contin-  
48 gent upon the patient's application for health insurance coverage. The  
49 hospital shall inform patients on how to file a complaint against the  
50 hospital or a debt collector that is contracted on behalf of the hospi-  
51 tal regarding the patient's bill. General hospitals are required to  
52 take reasonable measures to determine if a patient is eligible for  
53 financial assistance including prior to making a referral to a third-  
54 party debt collector or other extraordinary collections measures.

55 (g) The [~~policies and procedures~~] uniform financial assistance policy  
56 shall provide that patients with incomes below six hundred percent of

1 the federal poverty level are deemed eligible for payment adjustments  
2 and shall conform to the requirements set forth in paragraph (b) of this  
3 subdivision, provided, however, that nothing in this subdivision shall  
4 be interpreted as precluding hospitals from extending such payment  
5 adjustments to other patients, either generally or on a case-by-case  
6 basis. For patients determined to be eligible for financial assistance  
7 under the terms of [~~a hospital's~~] the uniform financial assistance poli-  
8 cy, the [~~policies and procedures~~] financial assistance policy shall  
9 prohibit any limitations on financial assistance for services based on  
10 the medical condition of the applicant, other than typical limitations  
11 or exclusions based on medical necessity or the clinical or therapeutic  
12 benefit of a procedure or treatment.

13 (h) A hospital or its agent shall not issue, authorize or permit an  
14 income execution of a patient's wages, secure a lien or force a sale or  
15 foreclosure of a patient's primary residence in order to collect an  
16 outstanding medical bill and shall not send an account to collection if  
17 the patient has submitted a completed application for financial assist-  
18 ance, until it has made reasonable efforts to determine whether a  
19 patient qualifies for financial assistance or while the hospital deter-  
20 mines the patient's eligibility for financial assistance. The [~~policies~~  
21 ~~and procedures~~] uniform policy shall provide for written notification,  
22 which shall include notification on a patient bill, to a patient not  
23 less than thirty days prior to the referral of debts for collection and  
24 shall require that the collection agency obtain the hospital's written  
25 consent prior to commencing a legal action. The [~~policies and proce-~~  
26 ~~dures~~] uniform policy shall require all general hospital staff who  
27 interact with patients or have responsibility for billing and  
28 collections to be trained in the [~~policies and procedures~~] uniform poli-  
29 cy, and require the implementation of a mechanism for the general hospi-  
30 tal to measure its compliance with the [~~policies and procedures~~] uniform  
31 policy. The [~~policies and procedures~~] uniform policy shall require that  
32 any collection agency, lawyer or firm under contract with a general  
33 hospital for the collection of debts follow the [~~hospital's~~] uniform  
34 financial assistance policy, including providing information to patients  
35 on how to apply for financial assistance where appropriate. The [~~poli-~~  
36 ~~cies and procedures~~] uniform policy shall prohibit collections from a  
37 patient who is determined to be eligible for medical assistance under  
38 title eleven of article five of the social services law at the time  
39 services were rendered and for which services medicaid payment is avail-  
40 able.

41 (i) Reports required to be submitted to the department by each general  
42 hospital as a condition for participation in the pools shall contain:  
43 (i) a certification from an independent certified public accountant or  
44 independent licensed public accountant or an attestation from a senior  
45 official of the hospital that the hospital is in compliance with condi-  
46 tions of participation in the pools;

47 (ii) a report on hospital costs incurred and uncollected amounts in  
48 providing services to patients found eligible for financial assistance,  
49 including the amount of care provided for patients under two hundred  
50 percent poverty, during the period covered by the report;

51 (iii) hospital costs incurred and uncollected amounts for deductibles  
52 and coinsurance for eligible patients with insurance or other third-par-  
53 ty payor coverage;

54 (iv) the number of patients, organized according to United States  
55 postal service zip code, race, ethnicity and gender, who applied for  
56 financial assistance under the [~~hospital's~~] uniform financial assistance



1 policy, and the number, organized according to United States postal  
2 service zip code, race, ethnicity and gender, whose applications were  
3 approved and whose applications were denied;

4 (v) the reimbursement received for indigent care from the pool estab-  
5 lished under this section;

6 (vi) the amount of funds that have been expended on financial assist-  
7 ance from charitable bequests made or trusts established for the purpose  
8 of providing financial assistance to patients who are eligible in  
9 accordance with the terms of the bequests or trusts;

10 (vii) for hospitals located in social services districts in which the  
11 district allows hospitals to assist patients with such applications, the  
12 number of applications for eligibility for medicaid under title eleven  
13 of article five of the social services law that the hospital assisted  
14 patients in completing and the number denied and approved;

15 (viii) the hospital's financial losses resulting from services  
16 provided under medicaid; and

17 (ix) the number of referrals to collection agents or contracted  
18 external collection vendors, court cases and liens placed on any resi-  
19 dences of patients through the collection process used by a hospital.

20 (j) ~~[Within ninety days of the effective date of the chapter of the~~  
21 ~~laws of two thousand twenty three which amended this subdivision each~~  
22 ~~hospital shall submit to the commissioner a written report on its poli-~~  
23 ~~cies and procedures for financial assistance to patients which are used~~  
24 ~~by the hospital as of such effective date. Such report shall include~~  
25 ~~copies of its policies and procedures, including material which is~~  
26 ~~distributed to patients, and a description of the hospital's financial~~  
27 ~~aid policies and procedures. Such description shall include the income~~  
28 ~~levels of patients on which eligibility is based, the financial aid~~  
29 ~~eligible patients receive and the means of calculating such aid, and the~~  
30 ~~service area, if any, used by the hospital to determine eligibility.~~

31 ~~(k)~~ The commissioner shall include the data collected under paragraph  
32 (i) of this subdivision in regular audits of the annual general hospital  
33 institutional cost report.

34 ~~(l)~~ (k) In the event the state is unable to secure all necessary  
35 federal approvals to include, as part of the state's approved state plan  
36 under title nineteen of the federal social security act, a requirement  
37 that compliance with this subdivision is a condition of participation in  
38 pool distributions authorized pursuant to this section and section twen-  
39 ty-eight hundred seven-w of this article, then such condition of partic-  
40 ipation shall be deemed null and void. Notwithstanding section twelve of  
41 this chapter, failure to comply with this subdivision by a general  
42 hospital shall make the hospital liable for a civil penalty not to  
43 exceed ten thousand dollars for each violation. The imposition of the  
44 civil penalties shall be subject to section twelve-a of this chapter.

45 ~~(m)~~ (l) A hospital or its collection agents shall not report adverse  
46 information about a patient to a consumer or financial reporting entity.  
47 A hospital or its collection agent shall not commence civil action  
48 against a patient or delegate a collection activity to a debt collector  
49 for nonpayment for one hundred eighty days after the first post-service  
50 bill is issued and until a hospital has made reasonable efforts to  
51 determine whether a patient qualifies for financial assistance. A hospi-  
52 tal or its collection agent shall not commence a civil action against a  
53 patient or delegate a collection activity to a debt collector, if: the  
54 hospital was notified that an appeal or a review of a health insurance  
55 decision is pending within the immediately preceding sixty days; or the

1 patient has a pending application for or qualified for financial assist-  
2 ance.

3 § 4. Subdivision 14 of section 2807-k of the public health law is  
4 REPEALED and subdivisions 15, 16 and 17 are renumbered subdivisions 14,  
5 15 and 16.

6 § 5. This act shall take effect immediately; provided that (a)  
7 section two of this act shall take effect on the one hundred twentieth  
8 day after it shall have become a law; and (b) sections one, one-a and  
9 three of this act shall take effect October 1, 2024 and apply to funding  
10 distributions made on or after January 1, 2025; provided, however, that  
11 if subpart C of part Y of chapter 57 of the laws of 2023 shall not have  
12 taken effect on or before such date then section one-a of this act shall  
13 take effect on the same date and in the same manner as such subpart of  
14 such part of such chapter of the laws of 2023, takes effect. Effective  
15 immediately, the commissioner of health may make regulations and take  
16 other actions reasonably necessary to implement sections one, two and  
17 three of this act on their respective effective dates.