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## HCA REVIEW OF RPMC'S FINANCIAL ASSISTANCE POLICY (FAP)

### 1. FEDERAL REQUIREMENTS FOR A NONPROFIT HOSPITAL FAP

The Code of Federal Regulations specifies the various requirements of a nonprofit hospital's FAP. We evaluated your hospital's FAP to determine whether it is consistent with 11 of the FAP minimum requirements:<sup>1</sup>

1. The FAP must be written.
2. The FAP must state that it applies to emergency and medically necessary care.
3. The FAP must list all levels of financial assistance the hospital offers and the eligibility criteria for financial assistance (at each level).
4. The FAP must state how patients can apply for financial assistance.
5. The FAP must make clear that patients eligible for financial assistance may not be charged more than the "amount generally billed" (AGB) to an insured patient and detail how the AGB is calculated.
6. The FAP must describe potential collection steps that the hospital will take to collect on an overdue bill including time frames and collection processes or have a separate billing and collections policy that states this information.
7. The FAP must include a listing of, or link to, providers whose services are covered by the FAP and those that are not.
8. The FAP must provide the contact information for a person(s) that patients can speak with if they need assistance applying for financial assistance or understanding the FAP. The contact information must include the physical location and telephone number of the hospital department or office that can provide additional information about the FAP.
9. There must be a plain language summary of the FAP.
10. The FAP and the plain language summary must be widely available as defined by the applicable regulations.
11. The FAP, the financial assistance application, and the plain language summary must direct patients to translated versions of these documents if such translations must be provided.

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<sup>1</sup> 26 C.F.R. § 1.501(r) *et seq.*

## 2. RUTLAND REGIONAL MEDICAL CENTER'S FAP

*Per HCA review, Rutland Regional Medical Center (RRMC)'s FAP complies with the following requirement(s):*

- The FAP is written. (requirement 1)

*Per HCA review, RRMC's FAP partially complies with the following requirement(s):*

- The FAP states that it applies to emergency and medically necessary care in certain places as does the plain language summary. (requirement 2) However, the financial assistance web page<sup>2</sup> and certain references in the FAP state that medically necessary services are covered as opposed to stating that both emergency and medically necessary services are covered.
  - **Recommendation:** Update the language on the web page and all references in the FAP and plain language summary to conform to the requirement that the FAP state that the FAP applies to emergency and medically necessary care.
- The FAP does not states how patients can/should apply for financial assistance. Although the FAP outlines procedures taken once an application is received and when FAP material are provided to a patient, the FAP does not clearly state that a patient must complete an application to apply for the FAP program. (requirement 4)
  - **Recommendation:** Add a section to the FAP that clearly states how a patient can apply for the financial assistance program (i.e. by obtaining and completing the RRMC FAP and submitting the completed FAP application to person/department X). This statement could be similar to the statement on the RRMC's Financial Assistance web page.<sup>3</sup>
- The FAP defines extraordinary collection actions, references RRMC's Billing and Collection Policy in the "Related Policies and Forms" section of the FAP, and RRMC posts the Billing and Collection Policy online. However, the FAP does not inform patients that RRMC's collection policies are detailed in the separate Billing and Collection Policy document. (requirement 6)
  - **Recommendation:** Add a section to the FAP that states that billing and collection processes are set forth in the Billing and Collection Policy.
- The FAP lists contact information for the department that patients can seek more information from about the FAP in Section E bullet 5. That section that details that financial counselors should mention the FAP when discussing a patient's bill over the phone or email. These statements are not sufficient to meet the regulatory requirement that the FAP provide a department or person(s) that a patient can contact to seek more information regarding the FAP because it is buried in a section on another topic. (requirement 8)
  - **Recommendation:** Add a bullet to FAP Section E that states that a patient can seek more information about the FAP by contacting a specific department or person(s) and provide the contact information (name, mailing address, email, and phone) for that department or person(s).

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<sup>2</sup> <https://www.rrmc.org/patient-visitors/billing-insurance/financial-assistance/>

<sup>3</sup> <https://www.rrmc.org/patient-visitors/billing-insurance/financial-assistance/>

- The FAP has a summary. However, the summary is not written in plain language (see Section 2 below). (requirement 9)
  - **Recommendation:** Update your FAP summary to be clear, concise and readable (see Section 2 below).
- The FAP states that patients receiving financial assistance will not be charged more than insured patients. RRMC also states that it uses the “look back” method to calculate the AGB percentage(s) and that the current AGB percentage is 54 percent. However, the FAP does not provide a description of the method that would allow members of the public to “readily obtain” such percentages. Simply stating that AGB is calculated using the “look back” method as defined by section 501(r)(5)(b)(1) is insufficient. (requirement 5)
  - **Recommendation:** Refer to 26 C.F.R. § 1.501(r)-4(b)(2)(i)(C) for the requirements related to AGB including information that must be provided when a hospital states it is using the “look back” method. Update FAP to comply with these requirements. Additionally, change any citations to “26 C.F.R. § 1.501(r)(5)(b)(1)” to include that it refers to the Code of Federal Regulations as opposed to just providing the chapter number.
- The FAP lists all levels of financial assistance available and the eligibility criteria for financial assistance based on household income. However, the FAP does not provide the amount of financial assistance available to households eligible for financial assistance due to catastrophic medical bills. Additionally, the FAP does not specify what the discount is from (e.g., charges, allowed amount, etc.) although it states there are discount levels. Lastly, it appears that there is no residency eligibility requirement but this should be clarified. (requirement 3)
  - **Recommendation:** Update the FAP to clarify that there is no the residency eligibility requirement.
  - **Recommendation:** Clarify what the discounts listed in the chart are taken from, and ensure that this information is clear and consistent throughout the materials.
  - **Recommendation:** State the discount if patients are eligible for financial assistance due to catastrophic medical bills. The discount for catastrophic situations is stated on financial assistance web page but not in the FAP.<sup>4</sup>
- The FAP includes some policies to ensure that it is widely available. However, the FAP fails to include several required elements to ensure that it is widely available. (requirement 10)
  - The FAP, plain language summary, and financial assistance application are available on RRMC’s website.
  - The FAP states that RRMC shall make “FAP plain language summary brochure available and without charge” However, the FAP must state that paper copies of the FAP, plain language summary, and financial assistance application can be obtained free of charge.
  - The FAP does not state how paper copies of the FAP, plain language summary, and financial assistance application can be obtained free by mail.

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<sup>4</sup> <https://www.rrmc.org/patient-visitors/billing-insurance/financial-assistance/>

- The FAP states reasonable means by which the community will be made aware of RRMC's financial assistance policy.
- The FAP states that the hospital facility notifies and informs individuals who receive care from the hospital facility about the FAP via each patient's pre-registration packet, registration, billing statement, and the posting of notices in public areas. The FAP, however, does not indicate that the public places where notices are posted include, at minimum, the emergency room and registration area(s) as required by law.
- **Recommendation:** Update the FAP to correct the above detailed failures to meet minimum regulatory requirements.

***Per HCA review, RRMC's FAP does not comply with the following requirement(s):***

- The FAP does not list providers who are covered and not covered by the FAP. We note that the FAP does state that services provided by a professional employed by RRMC are covered and that the list of providers covered is available upon request. The financial assistance website partially clarifies the FAP's description of covered services by listing some practice areas/clinics that are covered and provides examples of services that are not covered by the FAP. However, as is clarified in IRS Notice 2015-46, patients are often unaware of the relationships between a hospital facility and the health care providers working in the hospital facility. As such, a general statement that all services provided by professional employed by RRMC are covered neither provides the specificity required by the IRS nor adequately minimizes consumer confusion. (requirement 7)
  - **Recommendation:** Update the FAP to list all RRMC providers by name that are covered by the FAP and all providers by name that are not covered by the FAP.

***Per HCA review, it is unclear whether the RRMC FAP complies with the following requirement(s):***

- The FAP, financial assistance application, and plain language summary are not provided in languages other than English. The Code of Federal Regulations<sup>5</sup> states that these items must be provided in the appropriate language to be accessible to limited English proficient (LEP) individuals if there is an identifiable population that is reasonably likely to contact the hospital facility and this population consists of 1,000 individuals or more or 5 percent or more of the community served by the hospital, whichever is less. Per the regulations, a hospital is granted latitude to reasonably define how it identifies LEP individuals in the hospital's community. As the method and calculations RRMC uses to assess the need to provide materials in non-English languages is unknown, the HCA cannot assess compliance with this requirement. (requirement 11)
  - **Recommendation:** To ensure accessibility to LEP individuals and persons with disabilities, state in all financial assistance materials and on the website that:
    - Rutland Regional Medical Center provides free aids and services to deaf people and persons with disabilities to communicate effectively with us. This includes qualified sign language interpretation and written information in other formats

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<sup>5</sup> 26 C.F.R. § 1.501(r)-4(b)(5)(ii)

(large print, audio, accessible electronic formats, other formats). If you need these services, please contact us at (XXX) XXX-XXXX.

- Rutland Regional Medical Center provides free language services to persons whose primary language is not English. This includes qualified interpreters and written information in non-English languages. If you need these services, please contact us at (XXX) XXX-XXXX.

### ***FAP Evaluation Conclusion:***

Although RRMC's FAP is excellent in some areas, particularly regarding internal financial assistance processes and practices, it fails to fully comply with 10 of the 11 minimal requirements set forth in federal regulations. We believe that many of the above-identified issues can be easily corrected and look forward to RRMC bringing its FAP into compliance with the law.

### **3. RRMC'S FAP PLAIN LANGUAGE SUMMARY**

We evaluated whether the plain language summary of your hospital's FAP conformed with 8 of the requirements enumerated in the Code of Federal Regulations.<sup>6</sup> These eight requirements are that the plain language summary:

1. Include a brief description of the eligibility requirements and assistance offered under the FAP.
2. Include a brief summary of how to apply for assistance under the FAP.
3. Include the direct Web site address (or URL) and physical locations where an individual can obtain copies of the FAP and FAP application form.
4. Include instructions on how an individual can obtain a free copy of the FAP and FAP application form by mail.
5. Include the contact information, including telephone number and physical location, of the hospital facility office or department that can provide information about the FAP and either—
  - a. The hospital facility office or department that can provide assistance with the FAP application process; or
  - b. If the hospital facility does not provide assistance with the FAP application process, at least one nonprofit organization or government agency that the hospital facility has identified as an available source of assistance with FAP applications.
6. Include a statement of the availability of translations of the FAP, FAP application form, and plain language summary of the FAP in other languages, if applicable.
7. Include a statement that a FAP-eligible individual may not be charged more than the AGB for emergency or other medically necessary care.
8. The plain language summary must provide the above-listed information "in language that is clear, concise and easy to understand."

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<sup>6</sup> 26 C.F.R. § 1.501(r)-1(b)(24)

***Per HCA review, the plain language summary of RRMC's FAP complies with the following requirement(s):***

- The plain language summary includes a brief summary of how patients can apply for assistance. (requirement 2)
- The plain language summary provides the hospital facility department (Financial Counselors) that can provide information about and assistance with the FAP. (requirement 5)
  - ***Observations & Recommendation:*** It is unclear whether the reference to “Financial Counselors” is adequate to satisfy the requirement that the office that can provide assistance is listed in the plain language summary. Consider revising the plain language summary to specify the RRMC office that can provide assistance (i.e. the office the Financial Counselors are a part of).

***Per HCA review, the plain language summary of RRMC's FAP partially complies with the following requirement(s):***

- The plain language summary includes a brief section on eligibility. However, RRMC's plain language summary does not include any income categories for financial assistance, not even the top one at 500% FPL. (requirement 1)
  - ***Recommendation:*** Amend the plain language summary to specify the income limits for financial assistance.
- The plain language summary provides the web address where an individual can obtain a copy of the FAP and the FAP application. However, the plain language summary does not state that obtaining a copy of the FAP and the FAP application is *free* or how copies can be obtained by mail. (requirement 4)
  - ***Recommendation:*** Update the plain language summary to state that obtaining a copy of the FAP and the FAP application is free and how copies can be obtained by mail.

***Per HCA review, the plain language summary of RRMC's FAP does not comply with the following requirement(s):***

- The plain language summary provides a web address where an electronic copy of the FAP and FAP application can be obtained. However, the plain language summary does not indicate a physical address(es) where copies of the FAP and financial assistance application can be obtained. (requirement 3)
  - ***Recommendation:*** Amend the plain language summary to list the physical address(es) where individuals can obtain copies of the FAP and financial assistance application.
- The plain language summary does not state that a FAP-eligible person may not be charged more than AGB for emergency or medically necessary care. (requirement 7)
  - ***Recommendation:*** Amend the plain language summary to include a statement that patients may not be charged more than AGB for emergency or medically necessary care.

- The plain language summary is not clear, concise, and easy to understand. RPMC’s use of bullets, images, colors and white space increases the readability of the plain language summary. However, the plain language summary is roughly 31% passive sentences, has a Flesch Reading Ease score of 23.1, and Flesch-Kincaid Grade Level of 14.9. These measures indicate that many Vermonters would have difficulty reading and understanding RPMC’s plain language summary. For example, a Flesch-Kincaid Grade Level of 14.9 indicates that a person would need slightly under three years of post-secondary education to understand the document. (requirement 8)
  - **Recommendation:** Create a clear, concise, and easy to understand plain language summary. Such a plain language summary should have no more than 10% passive sentences, have a Flesch-Kincaid grade level of no higher than 8, and have a reading ease score of 70 or higher. Several free resources are available to help you craft a clear, concise, and easily understandable plain language summary. For example, the Plain Language Action and Information Network’s plain language guidelines<sup>7</sup> and the readability toolkit and online trainings from Kaiser Permanente.<sup>8</sup>

***It is unclear whether the plain language summary of RPMC’s FAP complies with the following requirement(s):***

- The FAP, financial assistance application, and plain language summary are not provided in languages other than English. The Code of Federal Regulations<sup>9</sup> states that these items must be provided in the appropriate language to be accessible to limited English proficient (LEP) individuals if there is an identifiable population that is reasonably likely to contact the hospital facility and this population consists of 1,000 individuals or more or 5 percent or more of the community served by the hospital, whichever is less. Per the regulations, the hospital is granted latitude to reasonably define how it identifies LEP individuals in the hospital’s community. As the method and calculations RPMC used to assess the need to provide materials in non-English languages is unknown, the HCA cannot assess compliance with this requirement. (requirement 6)
  - **Recommendation:** To ensure accessibility to LEP individuals and persons with disabilities, state in all financial assistance materials that:
    - Rutland Regional Medical Center provides free aids and services to deaf people and persons with disabilities to communicate effectively with us. This includes qualified sign language interpretation and written information in other formats (large print, audio, accessible electronic formats, other formats). If you need these services, please contact us at (XXX) XXX-XXXX.
    - Rutland Regional Medical Center provides free language services to persons whose primary language is not English. This includes qualified interpreters and written information in non-English languages. If you need these services, please contact us at (XXX) XXX-XXXX.

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<sup>7</sup> <https://www.plainlanguage.gov/guidelines/>

<sup>8</sup> <https://www.kpwashingtonresearch.org/about-us/capabilities/research-communications/prism/>

<sup>9</sup> 26 C.F.R. § 1.501(r)-4(b)(5)(ii)

***Plain Language Summary Evaluation Conclusion:***

The plain language summary of RRMC's FAP is not clear, concise, and understandable and does not comply with the minimal standards set by applicable federal regulations.

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