

# VERMONT LEGAL AID, INC.

## OFFICE OF THE HEALTH CARE ADVOCATE

264 NORTH WINOOSKI AVE.  
BURLINGTON, VERMONT 05401  
(800) 917-7787 (TOLL FREE HOTLINE)  
(802) 863-7152 (FAX)

OFFICES:

BURLINGTON  
RUTLAND  
ST. JOHNSBURY

OFFICES:

MONTPELIER  
SPRINGFIELD

## HCA REVIEW OF UVMHC'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.

---

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

## 2. UNIVERSITY OF VERMONT MEDICAL CENTER (UVMMMC)'S FAP

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

- The FAP is written. (requirement 1)
- The FAP provides a general statement regarding collection practices including that extraordinary collection actions will not be undertaken, cross references a collection policy and indicates how individuals can obtain said collection policy. (requirement 6)
- The FAP provides contact information for the department and persons that patients can seek more information from regarding the FAP. (requirement 8)

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

- The FAP states that it applies to emergency and medically necessary care in certain places. However, the listed service exclusions in the FAP and plain language summary include services that are generally deemed medically necessary (e.g., birth control). Additionally, the FAP and the financial assistance web page<sup>2</sup> state in various places that medically necessary services are covered as opposed to stating that both emergency and medically necessary services are covered. (requirement 2)
  - **Recommendation:** Update the language on the web page and all references in the FAP and plain language summary to conform to the requirement that medically necessary and emergency care are covered.
  - **Recommendation:** Remove from exclusions any services that are generally deemed medically necessary.
- The FAP does not state how patients can apply for financial assistance. (requirement 4)
  - **Recommendation:** Update the FAP to state how patients can apply for 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. UVMMMC also states that it uses the “look back” method to calculate the AGB percentage(s). However, the FAP does not state the numbers that the hospital uses to calculate AGB, the AGB percentage, or 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 “actual claims paid to the organization by Medicare only or claims paid to the organization by Medicare together with all private health insurers” does not meet the minimum standard required by law. (requirement 5)

---

<sup>2</sup> <https://www.uvmhealth.org/medcenter/Pages/Patients-and-Visitors/Billing-Insurance-and-Registration/Financial-Assistance.aspx#providers>

- **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.
- The FAP lists all levels of financial assistance available and the eligibility criteria for financial assistance. However, the FAP does not define the meaning of the residency eligibility requirement. In another financial assistance document (the financial assistance application), UVMMC states that the residency eligibility requirement is residency in Vermont and certain counties in NY or NH. Additionally, the FAP does not specify what the discount is from (e.g., charges, allowed amount, AGB) although it states there are discount levels. (requirement 3).
  - **Recommendation:** Update the FAP to clarify 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.<sup>3</sup>
- The FAP includes some policies to ensure that it is widely available. However, the FAP fails to include several required policies to ensure that it is widely available. (requirement 10)
  - The FAP, plain language summary, and financial assistance application are available on UVMMC’s website.
  - The FAP does not 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.
  - The FAP does not state any means by which members of the community served by the hospital facility are informed about the FAP in a manner reasonably calculated to reach those members who are most likely to require financial assistance from the hospital facility. We note that the FAP states that “information, rack cards and flyers are available through the Community Health Improvement office where staff routinely interacts with community centers and advocates disseminating information and programs available to the public.” However, this is not sufficient to meet regulatory requirements.
  - 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 patient statement and the posting of notices in the emergency room and other locations. It also states that patients are given the plain language summary upon intake.
  - **Recommendation:** Update the Communication of the Charity Program to Patients and the Public to correct the above detailed failures to meet minimum regulatory requirements.

---

<sup>3</sup> For example, the chart lists a percent discount for each income category. Text in the documents states “the amount generally billed for the previous fiscal year shall be applied to the 351 – 400% FPLG level. Additional discounts shall apply to each FPLG category up to a maximum assistance grant of 100% for <200% FPLG.” It is unclear if the statements and the chart are contradictory or not.

***Per HCA review, UVMMC'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 states that “All University of Vermont Medical Center employed medical providers rendering care at the University of Vermont Hospital and physician practices are covered under this policy.” Additionally, a list of providers covered and not covered is available on the website. 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 UVMMC providers rendering services at UVMMC are covered neither provides the specificity required by the IRS nor adequately minimizes consumer confusion. (requirement 7).
  - ***Recommendation:*** Update the FAP to list all UVMMC providers by name that are covered by the FAP and all providers by name that are not covered by the FAP or provide a link to the website where this information is maintained in addition to providing a method for patients to request a physical copy of the list.

***Per HCA review, it is unclear whether the UVMMC 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>4</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 UVMMC 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:
    - The University of Vermont 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.
    - The University of Vermont 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:***

Our review indicates that the FAP fully complies with 3 out of the 11 above-enumerated minimal requirements set forth in federal regulations.

---

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

### 3. UVMMC'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>5</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.”

***Per HCA review, the plain language summary of UVMMC'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 a web address and physical location(s) where copies of the FAP and FAP application can be obtained. (requirement 3)
- The plain language summary provides the hospital facility department that can provide information about and assistance with the FAP. (requirement 5)
- The plain language summary states that a FAP-eligible person may not be charged more than AGB for emergency or medically necessary care. (requirement 7)
  - **Note:** This statement is difficult to find as it is the last sentence in the first bullet of the Assistance Guidelines. We recommend moving this statement to the

---

<sup>5</sup> 26 C.F.R. § 1.501(r)-1(b)(24)

introductory paragraph or another high visibility position in the plain language summary.

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

- The plain language summary includes a brief statement of eligibility. The eligibility statement indicates that a patient must reside in UVMMC's service area. However, UVMMC's service area is not defined in the plain language summary. The UVMMC financial assistance application indicates that the residency eligibility requirement is simply residency in Vermont and certain out-of-state counties. (requirement 1)
  - ***Recommendation:*** Update the plain language summary to state that the residency requirement is residency in Vermont and certain out-of-state counties.
- The plain language summary provides information about 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 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 it can be obtained free by mail.

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

- The plain language summary is not clear, concise, and easy to understand (requirement 8). UVMMC's use of bullets, tables, 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 18.4., and Flesch-Kincaid Grade Level of 15.9. These measures indicate that many Vermonters would have difficulty reading and understanding UVMMC's plain language summary. For example, a Flesch-Kincaid Grade Level of 15.9 indicates that a person would need over three years of post-secondary education to understand the document.
  - ***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>6</sup> and the readability toolkit and online trainings from Kaiser Permanente.<sup>7</sup>

---

<sup>6</sup> <https://www.plainlanguage.gov/guidelines/>

<sup>7</sup> <https://www.kpwashingtongresearch.org/about-us/capabilities/research-communications/prism/>

***It is unclear whether the plain language summary of UVMMC’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>8</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 UVMMC 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:
    - The University of Vermont 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.
    - The University of Vermont 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.

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

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

**HCA Contact Information:**

Eric Schultheis, Ph.D., Esq., Staff Attorney  
Julia Shaw, MPH, Health Care Policy Analyst  
Email: [hcpolicystaff@vtlegalaid.org](mailto:hcpolicystaff@vtlegalaid.org)  
Voice: (802) 495-0448 (Eric Schultheis)

---

<sup>8</sup> 26 C.F.R. § 1.501(r)-4(b)(5)(ii)