

POLICY DIRECTIVE

NUMBER	1502
TITLE	Cost of Care – Financial Assistance Program (FAP)
EFFECTIVE DATE	5/3/2024
SUPERSEDES	NEW

STATEMENT

Policy Directives (PD) of the Department of State Hospitals (DSH) provide guidance, as appropriate, to comply with laws, regulations, codes, etc. PDs are issued and signed by the Director.

PURPOSE

The purpose of this PD is to establish a standardized process to evaluate and respond to requests to reduce, cancel, or remit a patient's cost of care account balance received from a patient, conservator, or the guardian of a patient's estate as authorized under Welfare and Institutions Code (WIC) section 7276.

WIC sections 7275 – 7290 authorize DSH to collect on the cost of care, support, and maintenance from liable patients.

The 2021 Budget Act, Health Omnibus via Chapter 143, Statute 2021 (Assembly Bill 133) included statutory changes to remove the financial liability of relatives of a DSH patient for care and treatment at a State Hospital. The 2022 Budget Act, Health Omnibus via Chapter 47, Statutes of 2022 (Senate Bill 184) included statutory changes to provide DSH with the authority to develop and implement a financial assistance program. The purpose of this PD is to provide a standardized process for DSH patients to be relieved of their financial liability under specific conditions, when appropriate, while ensuring DSH meets the condition of participation for reimbursement from Medicare.

Implementing a Financial Assistance Program (FAP) is permissible under Centers for Medicare and Medicaid Services (CMS) rules and regulations as well as state law pursuant to WIC section 7276. This policy outlines the criteria for patients to qualify for relief of their financial obligation to DSH.

This Policy is not intended to waive or alter any contractual provisions or rates negotiated by and between DSH and a third-party payer; provide discounts to a non-contracted third-party payer or other entities that are legally responsible to make payment on behalf of a beneficiary, covered person, or insured; or opt DSH into regulation under any other state or federal program.

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RESPONSIBILITY

Executive Sponsor: Deputy Director, Administrative Services Division

Process Owner: Patient Cost Recovery Section (PCRS), Section Chief

AUTHORITY

1. Welfare and Institutions Code section 4025
2. Welfare and Institutions Code sections 7275 – 7290
3. Health and Safety Code (HSC) section 127400, 2021 Budget Act, Health Omnibus via Chapter 143, Statute 2021 (Assembly Bill 133)
4. 2022 Budget Act, Health Omnibus via Chapter 143, Statutes of 2022 (Senate Bill 184)
5. Code of Civil Procedure section 337(b)

DEFINITIONS

Assets: A resource with economic value in the patient's name including, but not limited to cash, certificates of deposit, bank accounts, trust accounts, stocks, bonds, cryptocurrency holdings, personal property, and real property. Assets not countable include primary residence (where the patient lives), primary vehicle, tools necessary for work, and retirement funds (like IRAs) if the patient is taking the minimum monthly distribution.

Essential Living Expenses: Expenses for any of the following: rent or house payment, housing maintenance, food and household supplies, utilities, internet, and telephone payments, clothing, medical and dental payments, insurance, school or childcare, child or spousal support, transportation and auto expenses for primary vehicle, including insurance, gas and repairs, installment payments, laundry and cleaning, and other necessary living expenses.

Financial Assistance: Complete or partial debt forgiveness as outlined in this policy directive.

Financial Assistance Program (FAP) Application: The mechanism in which a DSH patient may request their cost of care be reduced or cancelled. A document provided to the requesting party to disclose a patient's assets, income, and financial commitments, to determine their ability to pay and qualification for full or partial financial relief.

Financial Assistance Program (FAP) Patient Guide: Guide for liable patients, provided during admission, informing them about the FAP.

Federal Poverty Level (FPL): A measure of income updated annually in the Federal Register by the United States Department of Health and Human Services, published at <http://aspe.hhs.gov/poverty>.

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Financial Consideration: A review process using the following documents to help determine if a patient qualifies for FAP.

1. Eligibility for insurance under any government coverage program or other third-party insurer
2. Income (determined based upon tax returns and recent pay stubs)
3. Written verification of wages from employer
4. A listing of all financial liabilities (mortgages, rent, court-ordered support and or restitution, utilities, etc.)

Financial Liability: The responsibility of a patient whose civil or criminal commitment requires them to pay their cost of care balance, pursuant to WIC section 7275.

Income: Any revenue received by, and accessible to, the patient. Including but not limited to wages, salary, tips, commission, net earnings from self-employment, and remuneration for services.

Non-countable income: Income from the Social Security Administration (Old-Age, Survivors, and Supplemental Security Insurance (SSI)), Veterans Affairs, Railroad Retirement, Public Employees Retirement, Federal Retirement, annuities, court judgements, and any other income excluded under the Medi-Cal program are protected from collection for the payment of debt unless granted permission by the patient or function of law.

Patient: An individual admitted or previously admitted to DSH who is, or was, ordered for treatment by a state superior court or the board of parole hearings. References to “patient(s)” in this policy may also apply to a patient’s conservator, their estate, the administrator of the estate or public guardian, when applicable.

Patient’s Cost of Care: The patient’s accumulation of charges for services rendered as a result of care and treatment by DSH. e.g., support, maintenance, and other services.

Potential Eligibility: A determination made by PCRS prior to a patient’s discharge that the patient is likely to be eligible for financial assistance through the FAP.

Reasonable Payment: Monthly payments no more than 10 percent of a patient’s income for a month, excluding deductions for essential living expenses. Once a payment plan is agreed upon, PCRS will renew monthly billing of the outstanding patient balance, pursuant to WIC section 7277.

Release of Information (ROI): Authorization for Release of Patient Information (DSH 5671) which authorizes disclosure of otherwise confidential or protected patient information and is required for all parties attempting to obtain patient medical or billing information.

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PROCESS

I. FAP Notification

- A. Upon admission, patients with financial liability will be provided an FAP Patient Guide and the program requirements. These documents will inform patients that they are required to make every effort to apply for Medicare during Open Enrollment and qualifying events to offset the cost of care.
- B. Upon discharge, patients will be given an FAP Patient Guide, an FAP Application and a Release of Information form (ROI) in their discharge packet. DSH will also mail the application to the patient after discharge.
- C. Upon receipt of a request in writing, by phone, or any other means of communication from a patient or their representative to reduce, cancel, or remit the amount owing for cost of care while in a DSH facility, PCRS will provide an FAP Application and a ROI to the requestor.
- D. The FAP Patient Guide, FAP Application and ROI will be available in Spanish and languages spoken by 5 percent or more of the patients served by DSH. DSH will make every effort to provide interpreter services to assist a patient in any language.
- E. PCRS may review a patient's assets and public benefit status during their admission using the Potential Eligibility Worksheet to assess potential eligibility for FAP upon discharge. PCRS may document a current patient's potential eligibility for financial assistance based on information provided by a patient upon admission. If it is determined the patient is likely to qualify for FAP, upon discharge PCRS may request supporting documentation to make a formal recommendation to the Chief Deputy Director of Operations or designee to reduce or eliminate the cost of care owed.

II. Determination

- A. The FAP Application and ROI may be returned to DSH by either of the following:

Mail: Department of State Hospitals
1215 O Street, MS-03
Sacramento, CA 95814

Email: DSHSACTRUSTOFFICE@dsh.ca.gov

- B. PCRS will review the FAP Application and supporting documents, confirming all required information has been received.
- C. Once all documents are received, PCRS will notify requesting party that the account will be reviewed, and written notification will be sent once a decision is determined.
- D. PCRS will perform a review of the patient's application and supporting documentation, as well as review the patient's cost of care account balance. Every effort will be made to render a determination within 30 days of receiving all required

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documents from the patient or their representative, however, extenuating circumstances may reasonably delay a decision.

- E. PCRS will make an eligibility recommendation based on a review of the FAP Application and supporting documents.
 - 1. If a patient's income, not including non-countable income, is determined to be at or below 300 percent of the FPL, and there are no countable assets in the patient's name, the individual will qualify for full financial relief of their cost of care debt.
 - 2. If a patient's income is determined to be between 300 percent and 500 percent of FPL, the application and supporting documents will be sent to the DSH-Legal Division for a recommendation on financial relief.
 - 3. If a patient's income is determined to be at or above 500 percent of FPL, the patient will not receive financial relief of their cost of care debt.
- F. If certain assets (i.e., secondary home or property) are identified and/or special circumstances that fall outside of FPL determination guidelines are recognized, PCRS may send the FAP Application and all supporting documentation along with their recommendation to reduce or cancel a patient's cost of care account balance to the DSH-Legal Division for review and concurrence or nonconcurrence, as appropriate.
 - 1. If the DSH-Legal Division is not able to provide an opinion within 30 days of receipt of the completed application and all supporting documentation, PCRS will send notification to the patient that the review process is ongoing.
 - 2. PCRS will include DSH-Legal Division opinion as part of supporting documentation of file.
- G. If financial assistance is approved for a full discount, the patient will be notified of the determination and their account balance will be reduced to zero.
- H. If financial assistance is approved for a partial discount, the patient and DSH may negotiate the terms of the payment plan, taking into consideration the patient's income and liabilities, including but not limited to, child support, restitution, and essential living expenses. DSH will make all reasonable efforts to determine a patient's ability to pay. If DSH and the patient cannot agree on the payment plan, DSH will set a monthly payment plan with payments that are not more than 10 percent of a patient's income for a month, excluding deductions for essential living expenses. DSH may declare any payment plan no longer operative after the patient's failure to make all consecutive payments due during a 90-day period, and may thereafter resume normal collection activity.
- I. PCRS will provide their recommendation to the Chief Deputy Director of Operations or designee. If DSH-Legal Division reviewed the file, their opinion will be included in the submission. The Chief Deputy Director of Operations or their designee will make the final determination to approve or deny a request for assistance. The Chief Deputy Director of Operations or their designee will notify PCRS of the decision.

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- J. PCRS will notify the patient or responsible party of the outcome of their request within 15 calendar days of the determination being made by the Chief Deputy Director of Operations or their designee.
- K. If the balance is reduced or cancelled, PCRS will adjust the patient account(s) and keep all documentation related to the decision for at least ten years. If the request for cancellation is denied, and the patient requests an appeal, continue to Appeals section of the process.

III. Appeal Process

- A. In the event partial or no relief is approved, the notification letter will advise that the patient may appeal the determination and provide instructions. All appeals are to be submitted to PCRS within 30 calendar days from the date of the written notification of the outcome of their request for financial assistance. Appeals will be reviewed by the Director or designee. If a determination affirms the initial denial, a written notice will be mailed to the patient. Appeals may be submitted:

Mail: Department of State Hospitals
1215 O Street, MS-03
Sacramento, CA 95814

Email: DSHSACTRUSTOFFICE@dsh.ca.gov

- B. The applicant may appeal the determination for financial assistance by providing relevant additional documentation to DSH within 30 calendar days of receipt of the notice of denial. All appeals will be reviewed by the Director or designee. If the determination on appeal affirms the denial, written notification will be sent to the applicant. The final appeal process will conclude within (30 calendar days of the receipt of a denial by the applicant.
- C. The Director or designee shall respond to appeals of cases where financial assistance has been denied. Should the patient's appeal be denied, and the original denial upheld, DSH will resume billing activities which include establishing a reasonable payment plan, pursuant to Health and Safety Code (HSC) section 127400(i).

IV. Collections

- A. When a patient has submitted a FAP Application and is attempting in good faith to settle an outstanding bill with DSH by negotiating a reasonable payment plan, or by making regular partial payments of a reasonable amount, DSH will not send the unpaid bill to any collection agency or other assignee.
- B. In California, the statute of limitations allows DSH four years from the date of patient discharge, from the most recent payment received, or from the patient's written agreement to pay the debt, whichever is later, to pursue legal action against the patient or responsible party for the patient's cost of care balance.

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ROLES

Chief Deputy Director of Operations or designee: Reviews FAP Application and supporting documents and approves or denies the reduction or cancellation of a patient’s cost of care debt.

Director or designee: Presides over the appeals process for final adjudication to approve or overturn the Chief Deputy Director of Operations’ or designee’s determination.

DSH-Legal Division: If applicable, perform legal review of FAP Application and supporting documents, ensure statutory compliance, and make recommendations to PCRS and/or Chief Deputy Director of Operations or designee.

Hospital Trust Officers: Responsible for communication of the guidelines to DSH team members and patients on WIC section 7276 and exchange of information on patient’s cost of care to include the following:

- Informing patients upon admission of the FAP.
- Informing patient of Medicare eligibility and application process during Open Enrollment and qualifying events.

PCRS: Provide information to patients or their representative regarding the FAP. Documents patients requesting financial assistance, collect and review financial documents from requestor, submit recommendation for reduction or cancellation of cost of care liability and all supporting documents to the Administrative Services Deputy Director or DSH-Legal Division (if applicable) for review and concurrence or nonconcurrence, and notify patients and/or responsible party of outcome. Will also review patient information for potential eligibility for financial assistance. Responsible for analysis and research of FAP requests including receipt, verification, and tracking of all related documentation as well as notification to the requesting party of final determination of their request. PCRS will forward their recommendation to the Administrative Services Deputy Director or their designee for review.

APPROVAL

Original Signed by Director

5/3/2024

Date:

STEPHANIE CLENDENIN
Director

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REFERENCE

1. United States Department of Health and Human Services Poverty Guidelines
[Poverty Guidelines | ASPE \(hhs.gov\)](#)

ATTACHMENT

1. DSH 10268 FAP Application