Division of Licensing and Regulatory Services

FREE CARE GUIDELINES

10-144 C.M.R. Ch. 150
Effective Date: July 1, 2007

New contact information as of
September 27, 2010

This replaces contact information found in specific sections of these guidelines.

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10-144
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF MAINECARE SERVICES

Chapter 150

FREE CARE GUIDELINES

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Hospital Free Care Guidelines

Summary: This rule establishes guidelines for the free care policies of hospitals for services including minimum income guidelines to be used in determining whether individuals are unable to pay for hospital services. This Chapter sets forth procedures for notifying patients of the availability of free care, determining who is qualified for such care, and annually reporting the quantity of free care provided.

1.01 OBLIGATION TO PROVIDE SERVICE AND ADOPT POLICY

A. No hospital shall deny services to any Maine resident solely because of the inability of the individual to pay for those services. Every hospital shall adopt and adhere to a free care policy that provides for a determination of inability to pay, defines the service to be provided as free care, and takes into account other sources of payment for care, consistent with the standards established in this Chapter.

B. Nothing in this rule shall preclude a hospital from adopting a policy for the provision of free care to individuals not qualifying for free care under this rule or for services not covered under this rule.

C. For purposes of this Chapter “free care" means service provided without expectation of payment from, or on behalf of, the individual receiving the hospital services.

1.02 INCOME GUIDELINES

A. **Definitions.** For purposes of this Chapter, the following definitions shall apply:

(1) **Family.** A family is a group of two or more persons related by birth, marriage or adoption who reside together and among whom there are legal responsibilities for support; all such related persons are considered as one family. (If a household includes more than one family and/or more than one unrelated individual, the income guidelines are applied separately to each family and/or unrelated individual, and not to the household as a whole.)

(2) **Family Unit of Size One.** In conjunction with the income guidelines, a family unit of size one is an unrelated individual, that is, a person of 15 years old or over who is not living with any relatives. An unrelated individual may be the sole occupant of a housing unit, or may be residing in a housing unit (or in group quarters such as a rooming house) in which one or more persons also reside who are not related to the individual in question by birth, marriage, or adoption.

(3) **Income.** Income means total annual cash receipts before taxes from all sources except as provided in subparagraph (b) below.

1.02 INCOME GUIDELINES (cont.)

(a) Income includes:

(i) money wages and salaries before any deductions,

(ii) net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);

(iii) regular payments from social security, railroad retirement, unemployment compensation, workers' compensation, strike benefits from union funds, veterans' benefits;

(iv) public assistance including Temporary Assistance to Needy Families, Supplemental Security Income, and General Assistance money payments;

(v) training stipends;

(vi) alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household;

(vii) private pensions, government employee pensions, and regular insurance or annuity payments;

(viii) dividends, interest, rents, royalties, or periodic receipts from estates or trusts; and

(ix) net gambling or lottery winnings.

(b) Income does not include the following:

(i) capital gains;

(ii) any liquid assets, including withdrawals from a bank or proceeds from the sale of property;

(iii) tax refunds;

(iv) gifts, loans, and lump-sum inheritances;

(v) one-time insurance payment or other one-time compensation for injury;

1.02 INCOME GUIDELINES (cont.)

(vi) non-cash benefits such as the employer-paid or union paid portion of health insurance or other employee fringe benefits;

(vii) the value of food and fuel produced and consumed on farms and the imputed value of rent from owner occupied non-farm or farm housing; and

(viii) Federal non-cash benefit programs, including Medicare, Medicaid, Food Stamps, school lunches, and housing assistance.

Note: Although one-time insurance payments are excluded from income, one-time insurance payments made for coverage of hospital services would limit the availability of free care to bills not covered by such payments. See subparagraph 1.05 (B) (1) (b).

(4) **Resident of Maine.** The term "Resident of Maine" refers to an individual living in the state voluntarily with the intention of making a home in Maine. An individual who is visiting or is in Maine temporarily is not a resident.

B. **Inability to Pay.** A person is unable to pay for hospital services when the family income of that person, as calculated by either of the following methods is not more than the applicable income guidelines set forth in subsection C, (if one method does not apply, the other must be applied before determination of ineligibility is made):

(1) Multiplying by four the person's family income for the three months preceding the determination of eligibility; or

(2) Using the person's actual family income for the 12 months preceding the determination of eligibility.

Eff. 7/1/07

C. **Income guidelines.** The Department establishes its income eligibility guidelines for free care based on one hundred and fifty percent (150%) of the Federal Poverty Level Guidelines (FPL). The FPL is also employed in establishing financial eligibility criteria for the Hill-Burton Uncompensated Services Program.

The FPL is issued annually by the U.S. Department of Health and Human Services. Each year's FPL is available on the Internet at http://aspe.hhs.gov/poverty. An individual can also obtain a copy of the current FPL by contacting the individual's local Department of Health and Human Services office; by calling 1-800-321-5557, ext. 79368 or 1-207-287-9368; or by writing to:

1.02 INCOME GUIDELINES (cont.)

Eff. 7/1/07

Office of MaineCare Services
Division of Policy
11 State House Station
Augusta, Maine 04333-0011

1.03 SERVICES COVERED

Hospitals shall provide free care for medically necessary inpatient and outpatient hospital services.

1.04 NOTICE OF AVAILABILITY OF FREE CARE

A. **Posted Notice.** Each hospital shall post notices of the availability of free care in locations within the hospital at which members of the public generally transact business with the hospital or present themselves to receive or request hospital services, including admitting areas, waiting rooms, business offices, and outpatient reception areas.

B. **Individual Notice.** With respect to inpatient services, each hospital shall provide individual written notice of the availability of free care to each patient upon admission or in the case of emergency admission, before discharge. With respect to outpatient services, each hospital shall either accompany the patient's bill with a copy of an individual notice of the availability of free care or shall provide a copy of the individual notice at the time service is provided.

C. **Content of Notice**

(1) The notice must contain the most current Federal Poverty Guidelines (FPL), which are obtainable from the Internet at: http://aspe.hhs.gov/poverty or through the Department. Except as provided in 1.04 (C) (2) below, the posted and individual written notice must state the following:*

Eff. 7/1/07

*Please note that the numbers provided as examples below are derived from the 2006 FPL, recalculated to one hundred and fifty percent (150%) of the FPL, and are provided merely to illustrate proper notice form. Notice should state the FPL of the relevant year.

1.04 NOTIFICATION OF AVAILABILITY OF FREE CARE (cont'd)

NOTICE
FREE MEDICAL CARE FOR THOSE UNABLE TO PAY

We must give free care to Maine people with income less than one hundred and fifty percent (150%) of the FPL, which for 2006 is as follows:

Eff. 7/1/07

Size of Family Unit	2006 FPL	150% FPL*
1	$9,800	$14,700
2	$13,200	$19,800
3	$16,600	$24,900
4	$20,000	$30,000
5	$23,400	$35,100
6	$26,800	$40,200
7	$30,200	$45,300
8	$33,600	$50,400

Add $3,400 for each additional person

You can apply for free care at

____
[specific location where individuals may apply].

You will be asked if you have insurance of any kind to help pay for your care. You may also be asked to show that insurance or a government program will not pay for your care.

Only necessary medical care is given as free care.

If you do not qualify for free hospital care, you are allowed to ask for a fair hearing. We will tell you how to apply for a fair hearing.

(2) In those instances where a hospital has a Hill-Burton obligation and where the hospital's free care policy for fulfillment of that obligation is not more restrictive than the guidelines set forth in this rule, a hospital may substitute its Hill-Burton notice for the notice specified in 1.04 (C) (1).

D. **Supplementation of Notice.** A hospital that elects to provide free care that would not be required under this Chapter shall supplement the notice set forth in (C) above with information about the availability of additional free care.

1.04 NOTIFICATION OF AVAILABILITY OF FREE CARE (cont'd)

E. **Communication of Contents.** The hospital shall make reasonable efforts to communicate the contents of the written notice to persons it has reason to believe cannot read the notice.

1.05 DETERMINATION OF QUALIFICATION

A. **Application**

(1) Each hospital shall provide an opportunity for each person seeking free care to make application on forms provided by the hospital.

(2) A hospital may require an applicant to furnish any information that is reasonably necessary to substantiate the applicant's income or the fact that the individual is not covered by insurance or eligible for coverage by state or federal programs of medical assistance.

B. **Determination**

(1) Upon receipt of an application, a hospital shall determine that an individual seeking free care qualifies for such care if:

(a) the individual meets the income guidelines specified in Section 1.02;

(b) the individual is not covered by any insurance nor eligible for coverage by state or federal programs of medical assistance; and,

(c) services received were medically necessary.

(2) If the hospital determines that the individual seeking free care meets the income guidelines but is covered by insurance or by state or federal programs of medical assistance, it shall determine that any amount remaining due after payment by the insurer or medical assistance program will be considered free care.

(3) A hospital may allow the determination of qualification for outpatient free care services to remain valid for up to six months following the date of determination.

If a hospital adopts the policy of allowing qualification for outpatient free care services to remain valid for six months, such policy shall apply to all individuals determined qualified for outpatient free care services. A determination of qualification for inpatient free care services shall be made with each admission.

1.05 DETERMINATION OF QUALIFICATION (cont.)

C. **Deferral of Determination**

(1) Under the conditions specified in paragraphs (2) and (3) below, a determination of qualifications for free care may be deferred up to 60 days, for the purpose of requiring the applicant to obtain the present evidence of ineligibility for medical assistance programs or to verify that the services in question are not covered by insurance.

(2) If an applicant for free care, who meets the income guidelines in section 1.02 and who is not covered under any state or federal program of medical assistance, meets any of the following criteria, qualification for free care shall be deferred:

(a) age 65 or over;

(b) blind,

(c) disabled;

(d) an individual is a member of a family in which a child is deprived of parental support or care due to one of the following causes, and the individual's income is less than the guidelines in section 1.02:

(i) death of a parent;

(ii) continued absence of the parent(s) from the home due to incarceration in a penal institute, confinement in a general, chronic or specialized medical institution, deportation to a foreign country, divorce, desertion or mutual separation of parents, or unwed parenthood;

(iii) disability of a parent; or

(iv) unemployment of a parent who is the principal wage earner;

(3) If an individual does not meet any of the criteria specified in (2) above, but the hospital is unable to determine the coverage of the individual and has a reasonable basis for believing that the individual may be covered by insurance or eligible for federal or state medical assistance programs, it may defer the determination concerning free care.

D. **Content of Favorable Determination.** A determination that an applicant qualifies for free care must indicate:

1.05 DETERMINATION OF QUALIFICATION (cont.)

(1) That the hospital will provide care at no charge;

(2) The date on which the services were requested;

(3) The date on which the determination was made; and

(4) The date on which services were or will be first provided to the applicant.

E. **Reasons for Denial**

Each hospital shall provide each applicant who requests free care and is denied it, in whole or in part, a written and dated statement of the reasons for the denial when the denial is made. When the reason for denial is failure to provide required information during a period of deferral under subsection 1.05 (C), the applicant shall be informed that she or he may reapply for free care, if the required information can be furnished. Additionally, the notice must state that the patient has a right to a hearing; how to obtain a hearing; and name and telephone number of the person who should be contacted, should the provider/patient have questions regarding the notice.

F. **Reasons for Deferral**

(1) When an application for free care under paragraph 1.05 (C) (2) is deferred, the applicant shall be notified as follows:

A free care determination has not yet been made. There is reason to believe that you [the applicant] may be eligible for coverage by state or federal medical assistance programs. If you can show that you are not eligible for coverage by these programs within 60 days of the date of this notice by obtaining a letter or other statement from __________ [insert name of state or federal agency to which applicant has been referred], then you will be considered qualified for free care. Even if you are eligible for coverage, free care will be available for any portions of the bills that medical assistance programs (or any insurance that you have) will not pay.

(2) When an application is deferred under paragraph 1.05 (C) (3), the applicant shall be notified of the reason for deferral, including the basis for the hospital's belief that coverage or eligibility may exist and the nature of the evidence that should be provided to complete the determination. The notice shall be in substantially the form specified in paragraph (1) above and shall include the last sentence of that form.

1.06 BILLING

A. If an individual has been determined qualified for free care under 1.05 (B) (1), the individual shall not be billed for the services provided.

B. If an individual has been determined qualified for free care under 1.05 (B) (2), the individual shall not be billed for any amount not paid by an insurer or medical assistance program.

C. If an individual's application for free care has been deferred under subsection 1.05 (C), then the individual may be billed for services during the period of deferral.

D. If an individual has been determined qualified for free care under subsection 1.05 (B) or if the determination covering free care has been deferred under subsection 1.05(C), then no municipality shall be billed under the general assistance program for hospital care provided to that individual.

1.07 NO LESSER COVERAGE ALLOWED

No hospital may establish policies that limit the availability of free care to individuals who are qualified for free care under the provisions of this rule.

1.08 REPORTING AND RECORD KEEPING

A. Each hospital shall maintain records of the amount of free care provided in accordance with the minimum guidelines established in this rule and the number of individuals to whom it was provided. If a hospital provides free care that is not required by this Chapter, the hospital shall maintain separate records of the amount of such care provided and the number of individuals to whom it was provided.

B. Each hospital shall report to the Department as part of its filing of information for purposes of final reconciliation, a summary of the amount of free care that was provided in the applicable payment year in accordance with the requirements of this Chapter; the amount of free care that was not required in this Chapter that was provided in that year; and the number of individuals to whom each type of free care (required and not required) was provided.

1.09 FILING; APPLICABILITY

A. Each hospital is required to file and maintain with the Department of Health and Human Services a current copy of its free care policy and a current copy of its posted notice of free care, adopted pursuant to the guideline of this rule.

1.10 NOTICE OF OPPORTUNITY FOR A FAIR HEARING

Mail a copy of the hospital's Free Care Policy to:

Rate Setting Unit
Office of Operations and Support
Department of Health and Human Services
11 State House Station,
Augusta, ME 04333-0011

A. In accordance with 22 M.R.S.A. §1716 the Department must grant the opportunity for a fair hearing regarding eligibility for free care to:

(1) Any applicant who requests it because his or her claim for free care is denied or not acted upon with reasonable promptness, or

(2) Any recipient of care who requests it because he or she believes the hospital has taken an action erroneously.

B. **Procedure to Request an Administrative Hearing**

An applicant for free care may request an Administrative hearing if he or she is aggrieved by the action that denies the request for free care. The Department may respond to a series of individual requests for a hearing by conducting a single group hearing. The applicant must follow the procedures described in this Section when requesting an administrative hearing.

(1) An Administrative Hearing may be requested by an applicant or his/her representative.

(2) Unless otherwise specified in these rules, administrative hearings must be requested within sixty (60) days of the date of written notification to the applicant of the action the applicant wishes to appeal.

(3) Request must be made by the applicant or his/her representative, in writing or verbally, for a Hearing to the Administrative Hearings Unit, Department of Health and Human Services, 11 State House Station, Augusta, Maine 04333-0011. For the purposes of determining when a hearing was requested, the date of the fair hearing request shall be the date on which the request for a hearing is made is considered the date of request for the hearing. The Administrative Hearings Unit may also request that a verbal request for an administrative hearing be followed up in writing, but may not delay or deny a request on the basis that a written follow-up has not been received.

1.10 NOTICE OF OPPORTUNITY FOR A FAIR HEARING (cont.)

(4) The Hearing will be held in conformity with the Maine Administrative Procedure Act, 5 M.R.S.A. §8001 *et seq*. and the Department's Administrative Hearing Manual.

(5) The Hearing will be conducted at a time, date and place convenient to hospital and the claimant, and at least twenty (20) days preliminary notice will be given. In scheduling a hearing, there may be instances where the hearing officer shall schedule the hearing location near the claimant or by telephone or Interactive Television System.

(6) The Department, the hospital and the applicant may be represented by legal counsel and may have witnesses appear.

(7) When a medical assessment by a medical authority other than the one involved in the decision under question is requested by the hearings officer, the hospital or the applicant and considered necessary by the hearings officer, it will be obtained at the Department's expense, and forwarded to the applicant or the applicant's representative, the hospital or its representative, and hearing officer allowing all parties to comment.

(8) When the applicant or the hospital or a Department staff person requests a delay, the hearing officer may reschedule the hearing, after notice to all parties.

(9) The decisions, rendered by the hearing authority, in the name of the Maine Department of Health and Human Services, will be binding upon the Department, unless the Commissioner directs the hearing officer to make a proposed decision reserving final decision making authorization to him or herself.

(10) Any person who is dissatisfied with the hearing authority's decision has a right to judicial review under Maine Rules of Civil Procedure, Rule 80C.

C. **Dismissal of Administrative Hearing Requests**

If any of the following circumstances exist, the Office of Administrative Hearings may dismiss the request for an administrative hearing.

(1) The claimant withdraws the request for a hearing.

1.10 NOTICE OF OPPORTUNITY FOR A FAIR HEARING (cont.)

(a) The claimant, without good cause, abandons the hearing by failing to appear.

(b) The sole issue being appealed is one of federal or state law requiring an automatic change adversely effecting some or all applicants for free care.

(2) Where an applicant's request for an administrative hearing is dismissed pursuant to this Section, the Office of Administrative Hearings shall notify the individual of his or her right to appeal that decision in Superior Court.

D. **Corrective Action**

The hospital must promptly make corrective action when appropriate, retroactive to the date an incorrect action was taken by the hospital if:

(1) The hearing decision is favorable to the applicant; or

(2) The agency decides in the applicant's favor before the hearing.

Chapter 150: Free Care Guidelines
Rule History

EFFECTIVE DATE:
August 23, 1995 (EMERGENCY)

EFFECTIVE DATE:
November 21, 1995

AMENDED:
January 30, 1996 (EMERGENCY) - Sections 10, 15, 20
April 24, 1996 - Sections 10, 15, 20

EFFECTIVE DATE (ELECTRONIC CONVERSION):
May 5, 1996

AMENDED:
May 14, 1996 (EMERGENCY) - Section 15
July 18, 1996 - Section 15
July 22, 1996 - Sections 15, 20
September 29, 1997 - Sections 1, 15, 20

REPEALED AND REPLACED:
June 1, 2000 - Section 20

AMENDED:
October 25, 2002, filing 2002-383 - Section 1
February 20, 2005 – filing 2005-55
August 1, 2005 – filing 2005-301
July 1, 2007 – filing 2007-222