

Disclosure of § 501(r) Failures and Correction

During its fiscal year ending June 30, 2017 (“FYE 6/30/17”), Pioneer Memorial Hospital (the “Hospital”) was arguably not in compliance with the final regulations under section 501(r)(4) through (6) of the Internal Revenue Code (Treas. Reg. § 1.501(r)-4 through -6) in certain respects. Those errors or omissions, as well as the corrections of them, are summarized below.

Section 501(r)(4): Financial Assistance Policy

Omissions in the FAP itself

The Hospital’s financial assistance policy (“FAP”) that was in effect for most of FYE 6/30/17 did not—

- Contain any mention of the amounts that the Hospital generally billed to individuals who have insurance and thus did not contain the information required to be included under Treas. Reg. § 1.501(r)-4(b)(2)(i)(C);
- Include a list of providers, other than the Hospital itself, delivering emergency or other medically necessary care in the Hospital that specified which providers were covered by the Hospital’s FAP and which were not, as required by Treas. Reg. § 1.501(r)-4(b)(1)(iii)(F); or
- Describe how members of the public may readily obtain a free copy of the Hospital’s billing and collection policy, as required by Treas. Reg. § 1.501(r)-4(b)(4)(ii).

The Hospital FAP adopted and in effect as of June 30, 2017, has been amended to include all of these missing items and this amended FAP has been widely publicized as described in the next section.

Widely Publicizing the FAP

Throughout FYE 6/30/17, the Hospital was widely publicizing its FAP by:

- Making its FAP and FAP application form widely available on its website (as defined in Treas. Reg. § 1.501(r)-1(b)(29));
- Making paper copies of its FAP and FAP application form available upon request (in both English and Spanish) in admission areas, reception areas, the emergency room, and near the business office;
- Mailing copies of its FAP and FAP application form to patients who requested it by mail;
- Posting signs in admission areas, reception areas, the emergency room, and near the business office, in both English and Spanish, that stated the following: “**Help with medical bills:** If you need help paying your bill, whether or not you have insurance, please contact our financial aid office at 541-676-913 or 1-800-737-4113”;
- Displaying and making available brochures summarizing the FAP in admission areas, reception areas, the emergency room, and near the business office, in both English and Spanish
- Displaying these signs and brochures, and making copies of the FAP and FAP application form available, in its affiliated clinics throughout its service area and in its home health and hospice offices.

While substantial, these steps that the Hospital took to widely publicize its FAP in FYE 6/30/17 arguably did not meet every specific requirement outlined under Treas. Reg. § 1.501(r)-4(b)(5). For example, the Hospital had not prepared or made available a plain language summary of the FAP (“PLS”) that contained every element specified in Treas. Reg. § 1.501(r)-1(b)(24) (although the Hospital had prepared a brochure summarizing the FAP in plain language that contained most of these elements and the Hospital’s FAP itself was short and easily distributed and in language that was clear, concise, and easy to

understand). In addition, the Hospital did not offer a paper copy of the PLS to patients as part of its intake or discharge process and did not include any notification regarding its FAP on billing statements, as required by Treas. Reg. § 1.501(r)-4(b)(5)(i)(D).

Beginning on June 30, 2017, the Hospital began widely publicizing its FAP in a manner that remedied all of the aforementioned deficiencies. For one, the Hospital prepared a PLS that meets the requirements of Treas. Reg. § 1.501(r)-1(b)(24) and began making it available in the following ways:

- On the Hospital's website in the manner described in Treas. Reg. § 1.501(r)-1(b)(29);
- Upon request and without charge, both by mail and in the Hospital's emergency room, admitting and registration areas, and business office and in the Hospital's affiliated clinics throughout its service area; and
- By including a copy of the PLS in discharge packets provided to patients.

The Hospital also began including a conspicuous written notice on its billing statements that informs the recipient that financial assistance is available and about how to obtain more information about the FAP.

Finally, the Hospital is in the process of amending its FAP brochure to contain all of the elements of a PLS specified in Treas. Reg. § 1.501(r)-1(b)(24) and intends to distribute these brochures through city halls, senior centers, and affiliated clinics throughout its service area.

Section 501(r)(6): Billing and Collection

In FYE 6/30/17, the Hospital's collection agency engaged in extraordinary collection actions (ECAs) described in Treas. Reg. § 1.501(r)-6(b) to obtain payment for care that had been provided by the Hospital. These ECAs included the reporting of adverse information to credit bureaus and most likely also included legal actions (such as small claims litigation, liens, and wage garnishment).

Before referring any debt to its collection agency in FYE 6/30/17, the Hospital sent out a letter that encouraged the person responsible for paying the bill (the "guarantor") to consider payment options, including the Hospital's "discount program available to lower income households that qualify," and to contact the Hospital if she or he was interested in applying for the program and provided the necessary contact information. If no payment or response was received to this letter, the Hospital would make telephone contact with the guarantor and discuss the possibility of financial assistance arrangements by phone. The Hospital would make multiple attempts to contact the guarantor by phone. If the Hospital were unable to make financial assistance arrangements (or negotiate a promise of payment or payment agreement terms) with the guarantor, it sent the guarantor a final notice letter that explained that his or her account would be transferred to a collection agency ("for legal action to collect th[e] debt") in 14 days if no response/payment were received and/or payment arrangements were not made (the "Final Notice"). If the Hospital received no payment or response to this letter in 7 days, it would make every effort to contact the guarantor by telephone, at home and at work, prior to the final date for payment and a referral to the collection agency.

The Hospitals' collection agency would not have engaged in any ECAs to collect the debts referred to it by the Hospital in FYE 6/30/17 until at least 120 days had elapsed after the Hospital had provided the first post-discharge billing statement for the care at issue. In addition, before engaging in any ECAs, the collection agency sent out an initial notice that would give the debtor 30 days to dispute the debt and, if state law permitted and required it, would notify the debtor that a negative credit report (reflecting on

his or her credit record) might be submitted to a credit reporting agency if the debtor failed to meet his or her credit obligations.

These substantial steps to notify a patient about the Hospital's FAP before engaging in ECAs resulted in the patient generally receiving most of the information and outreach about the FAP contemplated by the notification procedures described in Treas. Reg. § 1.501(r)-6(c)(4) and in at least 120 days elapsing before any ECA was initiated as contemplated by Treas. Reg. § 1.501(r)-6(c)(3)(i). Nonetheless, guarantors against whom ECAs were initiated in FYE 6/30/17 did not receive one notice containing all of the information described in Treas. Reg. § 1.501(r)-6(c)(4)(i)(A) and (B). In addition, the Hospital cannot verify that none of these guarantors applied for financial assistance during the application period and, if they did, that the requirements of Treas. Reg. § 1.501(r)-6(c)(5) and (6) were met, especially since the Hospital's agreement with its collection agency did not meet the requirements of § 1.501(r)-6(c)(10).

Effective June 30, 2017, the Hospital amended the Final Notice it sends to guarantors before referring their debt to a collection agency to include all of the elements required by Treas. Reg. § 1.501(r)-6(c)(4)(i)(A) and (B). In addition, the Hospital amended its agreement with its collection agency to require it to comply with its Billing and Collection Policy and amended its Billing and Collection Policy to generally require reasonable efforts described in Treas. Reg. § 1.501(r)-6(c). The Hospital is in the process of negotiating additional amendments to its agreement with its collection agency that expressly meets the requirements of Treas. Reg. § 1.501(r)-6(c)(10)(ii) and (iii) and intends to sign this amended agreement as soon as is reasonably possible. In the meantime, no patient referred to the collection agency after June 30, 2017, has applied for financial assistance and been determined to be eligible and hence there has been no need to require the collection agency to reverse any ECAs or to provide any refunds.

The Hospital has identified approximately 500 guarantors whose debt was referred to its collection agency in FYE 6/30/17. The Hospital is sending each of these 500 guarantors a notice reminding them that that they may be eligible for financial assistance on the referred accounts and enclosing a PLS. The notice will also inform the guarantor that if he or she applies for financial assistance within 120 days of the notice and is determined to be FAP-eligible, the ECAs taken against him or her will be reversed and any amounts paid by the individual in excess of the amount he or she owes after applying the applicable discount will be refunded. The Hospital will then process any applications it receives from these guarantors during the stated 120-day period and take the steps outlined in the notice for individuals determined to be FAP-eligible. In addition, if a guarantor applies during the stated 120-day period, the Hospital will instruct the collection agency to suspend any collection actions on that guarantor's account until the Hospital has determined the guarantor's eligibility for financial assistance.

Amended Practices and Procedures

In sum, the Hospital has amended its FAP, Billing and Collection policy, notices, billing statements, and agreement with its collection agency and amended its practices and procedures with respect to widely publicizing its FAP to come into compliance with the requirements under the regulations under section 501(r). In addition, the Hospital has trained the account representatives in its central patient business office who work on self-pay account balances on the new procedures called for in its amended Billing and Collection Policy. All of these steps should minimize the likelihood that these types of failures described above will recur and will facilitate the prompt identification and correction of any such future failures that do occur.