

Proposal for Legislation – 2023 Legislative Session Community Benefits and Charity Care Standards

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1. What is the problem or issue?

State law places the responsibility with DPHHS to ensure nonprofit hospitals have written charity care policies consistent with industry standards. As noted in the Performance Audit: Community Benefit and Charity Care Obligations at Montana Nonprofit Hospitals, September 2020 Legislative Report, the law does not define what those standards are, including spending and eligibility requirements related to charity care.

2. What do you want the legislation to do?

Provide DPHHS with oversight authority to promote efficiency and clarity in the standards of reporting charity care services in nonprofit institutions in Montana. The contemplated legislation will clarify the Department's authority to require and analyze Hospital and Critical Access Hospital Annual Reports, including financial community benefit and charity care data, and to develop consistent standards regarding charity care and community benefit spending. Stakeholders will be consulted in the development of these rules. The Department's priority with this authority is to collect reports and documents pertaining to charity care and to utilize these reports, as necessary, to develop standards in conjunction with stakeholders.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

MCA 50-5-121

4. If the proposed change requires additional funding, what funding sources do you propose?

Need for additional funding not expected at this point in time.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

Legislative Audit “Charity Care Final Report”

- Oregon recently passed legislation requiring nonprofit hospitals to provide some level of assistance to patients with incomes up to 400 percent of the FPL.
- Other states laws created a charity care eligibility floor. In Washington single patients with a salary between 100 percent and 200 percent of the FPL qualify for discounted charges.
- One state OIG reviewed created a charity care eligibility ceiling. In Georgia, patients making more than 125 percent of the Federal Poverty Level cannot receive assistance.
- A federal program, the National Health Service Corps, provides guidance on charity care. This program helps hospitals in Health Professional Shortage Areas which includes many of the rural areas of Montana. It assists these regions in finding healthcare professionals to staff facilities in those regions. To participate in the program, a hospital must meet certain criteria, including a charity care policy providing free services for patients at or below 100 percent of FPL, and reduced charges for patients between 101 and 200 percent of FPL.
- Other states provide guidance beyond eligibility. Texas, for example, requires nonprofit hospitals to have a charity care program satisfying one of a specific list of standards. Requirement examples include charity care spending in an amount equal to at least 100 percent of the hospital’s tax-exempt benefit, excluding federal income tax: or charity care spending in an amount equal to at least 4 percent of the net patient revenue.

Please note that these are only examples of policies in other states related to setting standards for charity care spending.