

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

**Hospital Care Payment Commission and New Jersey Hospital Care Payment
Fund
Debt Eligibility**

Proposed Amendments: N.J.A.C. 11:26-2.2 and 2.3

Authorized By: Hospital Care Payment Commission, Holly C. Bakke, Chairperson.

Authority: N.J.S.A. 17:1-8.1 and 15e and 17B:30-45.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-206

Submit comments by July 16, 2004 to:

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The agency proposal follows:

Summary

P.L. 2003, c. 112, approved on July 1, 2003, and codified at N.J.S.A. 17B:30-41 et seq. (the Act), allows hospitals to voluntarily assign unpaid accounts to a new State entity, the Hospital Care Payment Commission (Commission) for set-off against gross income tax refunds, NJ SAVER checks and Homestead rebates to pay these hospital debts. The Act provided that the Commission be established in the Department of

Banking and Insurance (Department). On November 5, 2003, pursuant to a special Office of Administrative Law (OAL) adoption process, the Commission adopted new rules implementing the Act (see 35 N.J.R. 5439(a)), which became effective upon filing with the OAL, and were scheduled to expire after six months (May 5, 2004). The rules were also concurrently proposed for re-adoption in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and would become effective upon acceptance of the notice of their adoption for filing by the OAL (see N.J.A.C. 1:30-6.4(f)) if filed on or before the six month expiration date. The normal rulemaking process includes providing the public with the opportunity to comment on the rules proposed for re-adoption. That comment period ended on January 30, 2004, and all comments received by the Department were addressed in the re-adoption notice appearing elsewhere in this issue of the New Jersey Register. Based on some of the comments received, the Commission concluded that certain amendments to the rules are necessary. Because these amendments were too substantial to make upon the re-adoption of the original adoption, the Commission is proposing them in this separate notice.

All of the commenters were concerned about the rules' requirement at N.J.A.C. 11:26-2.2(a)3 that in order to be eligible for the hospital debt collection program established by the Act, a hospital debt be no more than two years old. The commenters indicated that most hospitals use one or more collection agencies for bad debt recovery, and envisioned referring accounts to the State for collection under this program after those collection attempts are completed. Accordingly, the commenters

suggested that the Commission consider permitting debts with a minimum age of three years from the date of service or discharge from the hospital to be eligible for the State program. The Commission agreed with the commenters, and is hereby proposing to revise the debt eligibility requirements at N.J.A.C. 11:26-2.2(a)3 to permit the assignment to the Commission of those debts with a maximum age of five years notwithstanding the number of attempts made by the hospital to collect the debt, or those debts for which the hospital has made at least two collection attempts prior to submission to the program regardless of the age of the debt. To maintain consistency with this revised criteria, N.J.A.C. 11:26-2.3(a)2, which contains a reference to the number of attempts by a hospital to collect a bad debt, is proposed for deletion.

Social Impact

This proposed amendment should have a positive impact on New Jersey consumers and hospitals. By increasing the amount of debt eligible for collection under this program, the financial viability of many hospitals, as well as the continued availability and accessibility of health care to New Jersey consumers, is further enhanced.

Economic Impact

This proposed amendment would have a positive economic impact on New Jersey consumers, hospitals, private insurers and the State. Hospitals participating in the program will be able to increase the amount of debt transferred to the State for collection under this program, which should result in further enhancement of revenues.

The State will be favorably impacted because it will be entitled to retain its share of any additional monies collected. New Jersey consumers, private insurers and other State healthcare programs should be favorably impacted because any additional monies collected will further enhance the hospitals' financial viability, resulting in further stabilization of rates. However, New Jersey consumers whose hospital debts are ultimately collected under this enhanced debt eligibility criteria will be unfavorably impacted because those funds will be collected from them directly or as set-offs against their State income tax refunds, NJ SAVER checks or Homestead rebates. Nevertheless, these are legitimate debts that adversely affect New Jersey hospitals, consumers, private health insurers and the State in the form of higher bills for hospital services, as well as the hospitals' ability to remain financially healthy.

Federal Standards Statement

A Federal standards analysis is not required because this proposed amendment, which increases the amount of debt eligible for collection under this program, is not subject to any Federal standards or requirements.

Jobs Impact

The Department does not anticipate that this proposed amendment will result in the generation or loss of jobs except as discussed below. The amendment will increase the amount of hospital debt eligible for collection by the State under this program. However, N.J.A.C. 11:26 permits the Commission to contract with other State agencies

for any employees needed to carry out the administrative functions of the Commission. Accordingly, if additional staff is necessary to pursue the collection of these debts, only existing State employees will be utilized. Also, the Commission is permitted under these rules to contract with outside collection agencies if needed. It is not anticipated any hospitals participating in the program, or collection agencies, will require additional staff to handle the additional number of debts collectible under this program that may result from this amendment. However, to the extent that hospitals are able to recoup previously considered "uncollectable debts," they should be able to retain current staff, as well as add more staff, thus creating jobs.

Agriculture Industry Impact

The Department does not believe that this proposed amendment will have any impact on the agriculture industry in the State.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this proposed amendment will not impose any reporting, recordkeeping or other compliance requirements on "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Commission, which would pursue the collection of any additional hospital debts resulting from this amendment, is an instrumentality of the State and, therefore is not a small business. No hospitals participating in this program employ fewer than 100 employees full-time.

Smart Growth Impact

This proposed amendment would have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. HOSPITAL BAD DEBT ASSIGNMENT/COLLECTION PROGRAM

11:26-2.2 Debt eligibility

(a) All debts meeting the following standards shall be eligible for participation in the Commission's Hospital Bad Debt Collection Program:

1. - 2. (No change.)

3. [The debt shall be no more than two years old on the date of assignment to the Commission as determined by the date of discharge for inpatient services and date of service for outpatient services;] **The debt shall be either:**

i. A maximum of five years old on the date of assignment to the Commission as determined by the date of discharge for inpatient services and date of service for outpatient services, notwithstanding the number of attempts made by the hospital to collect the debt; or

ii. The hospital shall have made at least two collection attempts pertaining to the debt to be assigned prior to submission of the debt to this Program notwithstanding the age of the debt; and

4. (No change.)

11:26-2.3 Commission/Hospital Debt Assignment Program requirements

(a) Prior to the Commission's acceptance of any assignment, the hospital shall file with the Commission a notice, in a form approved by the State Treasurer, stating the hospital's intent to participate in the Program. The notice shall include a certification that states the following:

1. (No change.)

[2. The hospital provided at least two bills and collection notices pertaining to the debt to be assigned to the debtor prior to submission of the debt to this Program];

Recodify existing 3. – 9. As **2. – 8.** (No change in text.)

(b) - (h) (No change.)

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