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### Who Me?

- Shawn K. Gretz  
VP of Sales for Americollect and AmerieBO

I am not a lawyer, nor do I play one on TV, and I did not stay at a Holiday Inn last night. People seeking legal advice should always consult with an attorney.

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### Who We Are:




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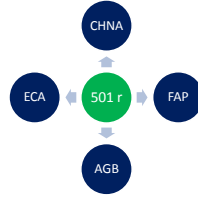


## Background – 501(r)

501(r)(4) – Financial Assistance Policy (FAP)

501(r)(5) – Amount Generally Billed– (AGB)

501(r)(6) – Extraordinary Collection Actions – (ECA)




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### What We Are Going to Cover Today!

1. What is and isn't an ECA
2. What are the "Reasonable Efforts"
3. What is the "Application Period"

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Thanks IRS!



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Remarkable!

ex·traor·di·nar·y

/ɪkˈstrɔrd(ə)n.ərē, ɛkstrəˈɔrdn.ərē/

adjective

- 1. very unusual or remarkable.  
 "the extraordinary plumage of the male"  
*synonyms:* remarkable, exceptional, amazing, astonishing, astounding,  
 sensational, stunning, incredible, unbelievable, phenomenal, More

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Extraordinary Collection Actions

- Remarkable Collection Actions
- Exceptional Collection Actions
- Amazing Collection Actions
- Sensational Collection Actions
- Stunning Collection Actions
- Incredible Collection Actions
- Phenomenal Collection Actions

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(6)  
ECA

May not engage in “extraordinary collection actions” before an organization has made “reasonable efforts” to determine whether individual is eligible for financial assistance for the care provided.

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(6)  
ECA

What are ECAs? (Page 128)

- (1) Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus. (Page 130)
- (2) Actions that require a legal or judicial process, including but not limited to-
  - (a) Commencing a civil action against an individual ;
  - (b) Garnish an individual's wages;
  - (c) Place a lien on an individual's property;
  - (d) Foreclose on an individual's real property;
  - (e) Attach or seize an individual's bank account or any other personal property;
  - (f) Cause an individual's arrest; and
  - (i) Cause an individual to be subject to a writ of body attachment;

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(6)  
ECA

What are NOT ECAs? (Page 128)

- (1) Listing with a collection agency.
- (2) Calling a patient by telephone.
- (3) Writing off the account to Bad Debt.
- (4) Sending a patient a bill.
- (5) Upfront Collections for the current care(Page 134)

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### Reasonable Effort

- 1. **Three Bills/Statements** - Based on typical billing cycles reported by commenter's, should ensure patients receive **at least three bills** before facing an ECA.

<http://www.hfma.org/WorkArea/DownloadAsset.aspx?id=21228>

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### Reasonable Effort

- 1. **Three Bills/Statements** - Requirements:  
Conspicuous Written Notice (Statements)  
Does your billing statement include a **conspicuous written notice** that notifies and informs the recipient about the availability of FA under the hospital FAP including the telephone number of the hospital department or facility and direct web site address where copies of documents may be obtained? (Page 5 & 91)

This is also required to be of **sufficient size to be clearly readable**.

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### Reasonable Effort

- 1. **Three Bills/Statements**  
Example: Conspicuous Written Notice  
**Financial assistance is available to those who qualify; please call XXX-XXX-XXXX or learn more at www.XXX.com**

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## Reasonable Effort

### 1. Three Bills/Statements –

#### Mail Returns:

"Provided" is considered to be the date it was mailed, emailed, or delivered by hand.  
(Page 152)



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## Reasonable Effort

### 1. Three Bills/Statements –

#### Mail Returns:

- Make sure your billing and collection policy is written correctly to put the requirement on the patient to provide a correct mailing address such as:
- **It is the patient's obligation to provide a correct mailing address at the time of service or upon moving. If an account does not have a valid address, the determination for "Reasonable Effort" will have been made.**



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## Reasonable Effort



### 1. Three Bills/Statements –

Will you initiate a program to convert many of your mailed statements to electronic (for example by email) to any individual who indicates he or she prefers to receive the written notice or communication electronically? (Page 151)

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## Reasonable Effort

2. **Plain Language Summary:** Final regulations require a **plain language summary** to be included with **only one post-discharge communication** and give a hospital facility the flexibility to send this one plain language summary only to the **subset of patients** against whom the hospital facility actually intends to engage in extraordinary collection actions.

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## Reasonable Effort

2. **Plain Language Summary:**  
**What to Put on your Plain Language Summary**

1. A statement such as, "Financial assistance is available to those that qualify."
2. How to qualify. Most health systems use the federal poverty guidelines to qualify a patient for financial assistance. My suggestion is to put what those qualifications are.

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## Reasonable Effort

2. **Plain Language Summary:**  
**What to Put on your Plain Language Summary**

3. How to apply (required):
  - a. The direct website address and physical location(s) where the individual can obtain copies of the FAP and FAP application form; and
  - b. The physical location of hospital facility staff who can provide the individual assistance about the FAP and the FAP application process that the hospital facility has identified as available sources of assistance with FAP application.
4. Where free copies of the policies and application can be obtained.

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## Reasonable Effort

2. **Plain Language Summary:** Examples:

<http://www.spectrumhealth.org/documents/financialassistance/financialassistanceeligibilitypolicysummary.pdf>

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## Reasonable Effort

3. **Oral Communication:**

- Did the hospital facility **make a reasonable effort to orally notify** those patients against whom the hospital facility intends to engage in ECAs at least 30 days before they intend to initiate? (Page 146 & 149)

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## Reasonable Effort

3. **Oral Communication:**

Remember that the hospital does not have to actually speak with the individual; it just must make an **attempt to communicate**.

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## Reasonable Effort

### 3. Oral Communication:

- LIVE customer service team member
- Agent-less Call (Like Appointment Reminder)

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## Reasonable Effort

### 3. Oral Communication:

- Agent-less Call (Like Appointment Reminder)

#### TCPA Compliant:

- Financial assistance drop messages will have to comply with the TCPA (Telephone Consumer Protection Act) because they have "financial content". Here is the TCPA requirements: (1) They must be sent only to the wireless telephone number provided by the patient; (2) they must state (at the beginning of the call for voice calls) the name and contact number of the healthcare provider; (3) they must be limited strictly to the above-described purposes and cannot include any telemarketing, solicitation or advertising; may not include accounting, billing, debt-collection or other financial content; and must comply with HIPAA privacy rules; (4) they must be concise, generally one minute in length for voice calls and 160 characters or less for text messages; (5) they must be limited to one message per day, and up to a maximum of three messages per week from a specific healthcare provider; (6) they must offer an easy means of opting out of future messages; and (7) opt-out requests must be honored immediately.

AND you will need to get express permission from the patient!

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## Reasonable Effort

### 3. Oral Communication:

- Agent-less Call (Like Appointment Reminder)

*"Hi this is XXX financial assistance counselors who can be reached at XXX-XXX-XXXX and we offer financial assistance to those that qualify and who are struggling to pay for their medical bills. Press 1 to talk to a financial assistance counselor today or call us back at XXX-XXX-XXXX, again that number is XXX-XXX-XXXX. To opt out of any further communications please call us back at XXX-XXX-XXXX "*

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### Reasonable Effort

#### 3. Oral Communication:

- LIVE customer service team member

*Ameri E.B.O. our self pay collection company is stating on every call:*

*"Financial Assistance is available to those that qualify"*

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### Reasonable Effort

**4. Final Notice-** Did you update your final notice with the "intended" ECAs also mentioning that financial assistance is available (Page 150)?




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### Reasonable Effort

**4. Final Notice-** (Page 150)

**DEADLINE** -The deadline may be no earlier than 30 days after the ECA Initiation Notice sent by mail or electronic mail.




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## Reasonable Effort

### 4. Final Notice-

#### Intended

According to our records, your account is seriously past due. If we do not hear from you within 30 days from the date of this letter, your account will be referred to a collection agency. Please call us at XXX-XXX-XXXX to discuss payment options, mail in payment-in-full, or pay-in-full online at [www.XXX.com](http://www.XXX.com). We intend for our collection agency partner at their discretion, and with our approval to engage in the following extraordinary collection actions including, but not limited to:

- 1. Reporting your account to consumer credit reporting agencies or credit bureaus.
- 2. Taking actions that require a legal or judicial process, including, but not limited to commencing a civil action against and garnishing an individual's wages.

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## Reasonable Effort

### 4. Final Notice-

#### Multiple Episodes of Care - Intended

- According to our records, your account is seriously past due. If we do not hear from you within 30 days from the date of this letter, your account will be referred to a collection agency. Please call us at XXX-XXX-XXXX to discuss payment options, mail in payment-in-full, or pay-in-full online at [www.XXX.com](http://www.XXX.com). We intend for our collection agency partner, at their discretion, and with our approval, to engage in the following extraordinary collection actions by the date listed on the reverse of this notice including, but not limited to:

- 1. Reporting your account to consumer credit reporting agencies or credit bureaus.
- 2. Taking actions that require a legal or judicial process, including, but not limited to commencing a civil action against and garnishing an individual's wages.

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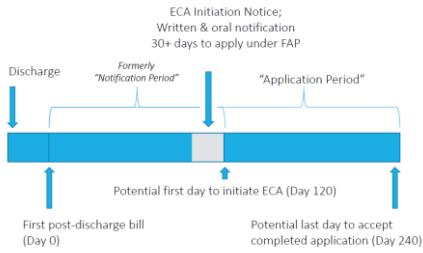
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## Offering Financial Assistance Timeline!




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## Application Period

### Application Period:

Must accept & process FAP applications during longer period that end on **240th day** after hospital provides an individual with first post discharge billing statement.

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## Application Scenarios

Received an Application – NOW what?

1. Approved – NOW what?
  - a. Full Amount?
  - b. Less Than Full Amount?
2. Denied – NOW what?
3. Missing Information – NOW what?

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## Application Period

**Received Application:** What happens next?

1. **Notify your collection agencies** that you received a financial assistance application during the application period and ECAs need to be suspended? (Page 153)(Page 155)
2. How will you make eligibility determination in a **timely manner**? (Page 155)
3. Document the determination?
4. How will you **notify the responsible individual** in writing of your determination? (Page 155)

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## Application Period



**Approved:**

- How will your organization notify the responsible individual that they were **eligible for free care under the FAP**? (Page 158)
- How will your organization issue **refunds** for payments made for a responsible individual that is eligible for financial assistance? (Page 158) \$5 is the threshold that is required to be refunded.
- How will your organization **notify your collection agency** if you approved an application and ECAs have to be reversed? (Page 153)

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## Application Period



**Approved for less than full amount:**

- How will your organization **notify the responsible individual** that they were eligible for discounted care under the FAP? (Page 158)
- Provide the **Final Notice** with 30 days to pay before initiating ECAs.
- How will your organization **notify your collection agency** if you approved an application and ECAs have to be reversed and a notice was sent to the responsible individual about resuming ECAs in 30 days and an accompanying plain language summary of the FAP? (Page 153)

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### 501(r)(6) – Application Period



**Not Approved:**

- How will your organization make sure a **FINAL NOTICE** that is sent to the responsible individual is not approved and to resume ECAs in 30 days and an accompanying plain language summary of the FAP has been mailed?(Page 153)
- How will your organization **notify your collection agency** to resume ECAs if it has been 30 days since you provided the notice of intended ECAs and an accompanying plain language summary of the FAP if the application was not approved? (Page 153) This is only for the care at issue.

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### 501(r)(6) – Application Period



**Missing Information:**

- How will your organization make sure a **notice is sent to the responsible individual of the missing requirements/ FINAL NOTICE** to make financial eligibility determination and to resume ECAs in 30 days and that an accompanying plain language summary of the FAP has been mailed?(Page 153)
- How will your organization **notify your collection agency** to resume ECAs if it has been 30 days since you provided the notice of intended ECAs and an accompanying plain language summary of the FAP) if the application is not completed? (Page 153) This is only for the care at issue.

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### 501(r)(6) – Application Period



**Timely Manner:**

Will your organization require a Medicaid application be filed before approval or denial of financial assistance? (Page 156)

What is considered a "timely manner" to approve a financial assistance application? (Page 156)

**Suggestion:** In my experience, "timely manner" is not a friendly language for hospitals because it can be decided by a single individual. Some could be friendly and use the upper limit of 45 days that was listed in the examples and others may say reasonable is 30 days. I would suggest trying to make the determination for financial assistance within 30 days unless the individual is applying for Medicaid coverage.




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### 501(r)(6) – Document - NO

**Documentation:**

Unlike Medicare Bad Debt, documentation is not required on each responsible party. ☺

But you do have to update your 990 to include whether and how reasonable efforts were made to determine FAP eligibility before engaging in ECAs? (Page 151)

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### Collection Agency

- Hospital facilities must be held accountable for the ECAs of the debt collection agency or debt buyers. (Page 127)



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### Collection Agency

Do you have a **contract in place** with your collection agency that requires them to follow 501(r) regarding ECAs and also FAP applications? Included in the contract should be language that if the collection agency mistakenly violates 501(r)(6), they will notify/disclose to the hospital facility and correct the failure immediately. (Page 127)

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### 501(r)(6) – Update Contract

- 1. **Disclose all failures:** A hospital’s 501(r)(6) failure, based on a third party’s actions, may be excused if the failure is minor (*e.g.*, not willful or egregious) and the hospital corrects and discloses the failure. (Page 27)
- 2. Will your organization’s collection agency take any of the necessary steps to make **reasonable efforts determination**? (Page 169)  
Treasury has clarified that the hospital facility will take those steps.

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### 501(r)(6) – Update Contract

#### Collection Agency Contract

- 3. Wait on ECAs
- 4. Who will refund Patients if Approved for FA?
- 5. Suspend ECAs in Application Period
- 6. Send FA Application to Patient

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### Collection Policy

Two options on how to create a “Billing and Collection Policy”

- 1. Update your FAP
- 2. Or Create a separate “Billing and Collection Policy”

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### Collection Policy

GET YOUR  
FREE COPY

<http://www.americollect.com/501r/>

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### Collection Policy Requirements

1. Describe the Actions the Hospital will take
2. Describe the Actions a collection partner may take
  1. Including extraordinary collection actions (ECA)
  2. But not limited to the ECAs
3. Must also describe the process and time frames the hospital facility (or other authorized party) will use in taking these actions
4. Include any reasonable efforts to determine whether an individual is FAP-eligible as described in section 501(r)(6).
5. In addition, the FAP or billing and collections policy must describe the office, department, committee, or other body with the final authority or responsibility for determining that the hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible and may therefore engage in extraordinary collection actions against the individual.
6. How can individuals obtain a free copy?

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Q&A

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