

Who We?

RIDICULOUSLY NICE

for

55

YEARS

Collections

Early Out

Who Me?

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.

Agenda

1. Quick - background on 501r
2. What is a Schedule H
3. 3 year audit
4. Who must comply with 501r
5. Discuss options for improvements, compliance, and procedures: 501r- 4 & 5
6. Q&A

Background – 501(r)

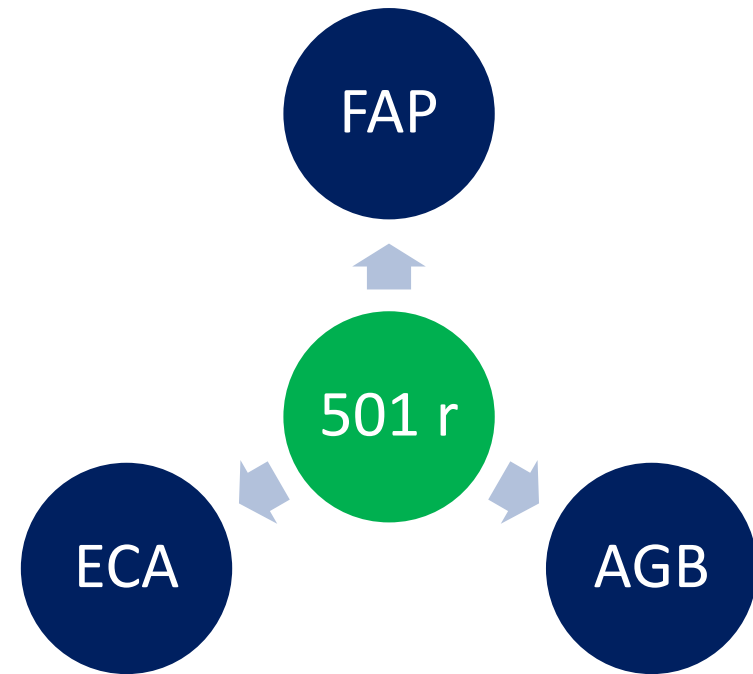
- 2005-2006 – Senator Grassley started inquiring about the “community benefit” for hospitals.
- 2008 – IRS released Schedule H on the 990.
- 2010 – IRS was required to create 501r.
- 2016 – IRS released the final version of 501r, but also released that hospitals must use a “good faith interpretation of 501r” previously.

Background – 501(r)

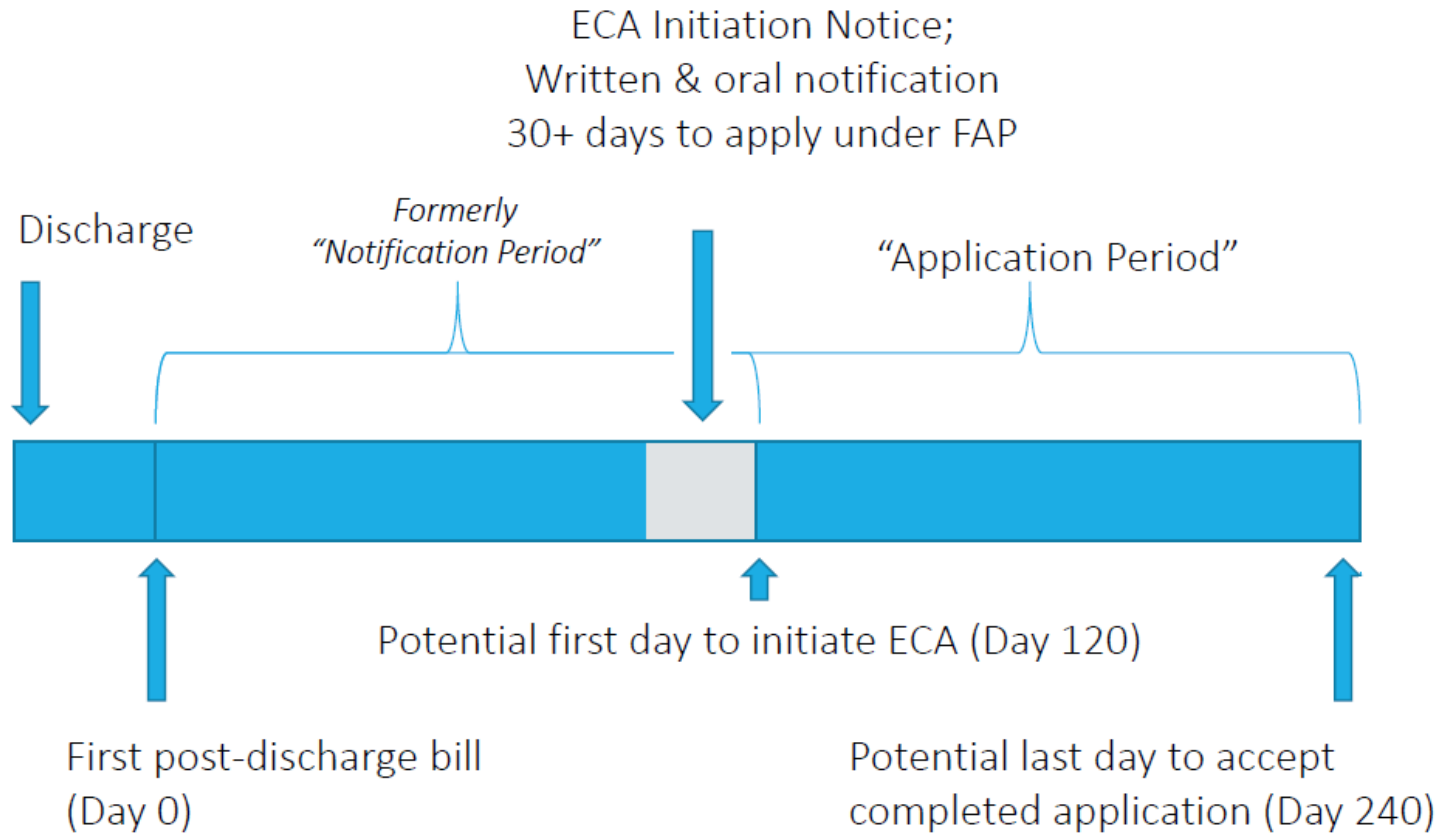
501(r)(4) – Financial
Assistance Policy (FAP)

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

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



Background



Background

240 Days!

Schedule H

- <https://www.irs.gov/pub/irs-pdf/f990sh.pdf>

990	Return of Organization Exempt from Income Tax	
Department of the Treasury Internal Revenue Service	Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code or section 170(e)(2)(B) of the Code. benefit trust or private foundation.	
	▶ The organization may have to use a copy of this return to file Form 990-E.	
For the 2006 calendar year, or tax year beginning		
Check if applicable: Address change Name change Initial return	Please use IRS label or print or type. See Specific Instructions.	C Name of organization Number and street (or P.O. box if mail is not delivered) City or town, state or territory, and ZIP+4

IRS is Auditing!!!!

- Affordable Care Act requires IRS to review every hospital for 501r at least once every three years!
 - Majority of reviews happen remotely and you will not even know you have been reviewed (They will review your hospitals - 990s, financial statements, & websites.
 - Around 1,200 reviews completed yearly
 - In 2017 - 166 referrals exams, 33 - \$50,000 fines, and 1 tax exempt status lost!

IRS is Auditing!!!!

- Questions asked for an onsite audit -
 1. Information document request (IDR)
 - Questions you will be asked
 - Evidence of adoption such as board minutes or resolution
 - Exact website page for FA, FAP, EMTALA, and Billing and Collection Policy
 - Copies of policies FA, FAP, EMTALA, and Billing and Collection Policy
 - Amount Generally Billed (AGB) Location in FAP and Calculations
 - Gross and AGB Charges for all Emergency and Medically Necessary Care

IRS is Auditing!!!!

IDR Continued

- How FA information was Widely Publicized
- Copy of a Billing Statement (conspicuous written notice)
- Copy of Translated Documents
- Onsite Tour of Signage (Widely Publicized)
- List of Extraordinary Collection Actions (ECA) performed
- Three examples of ECA performed with timeline
- Final Notice sent to those three examples
- Examples of ECA legal or judicial actions taken
- Copy of Contract with Collection Agency with 501r addressed
- Interview Individual Names

IRS is Auditing!!!!

IDR Continued

- Complaints from Patients in regards to 501r (No where in the regulation required this!)
- List of Providers for FAP (with date updated)

Who Must Comply?

- Any “hospital organization,” meaning any Code Section 501(c)(3) organization that operates a “hospital facility” A “hospital facility” is any facility “required by state law to be licensed, registered, or similarly recognized as a hospital”

Special situations:

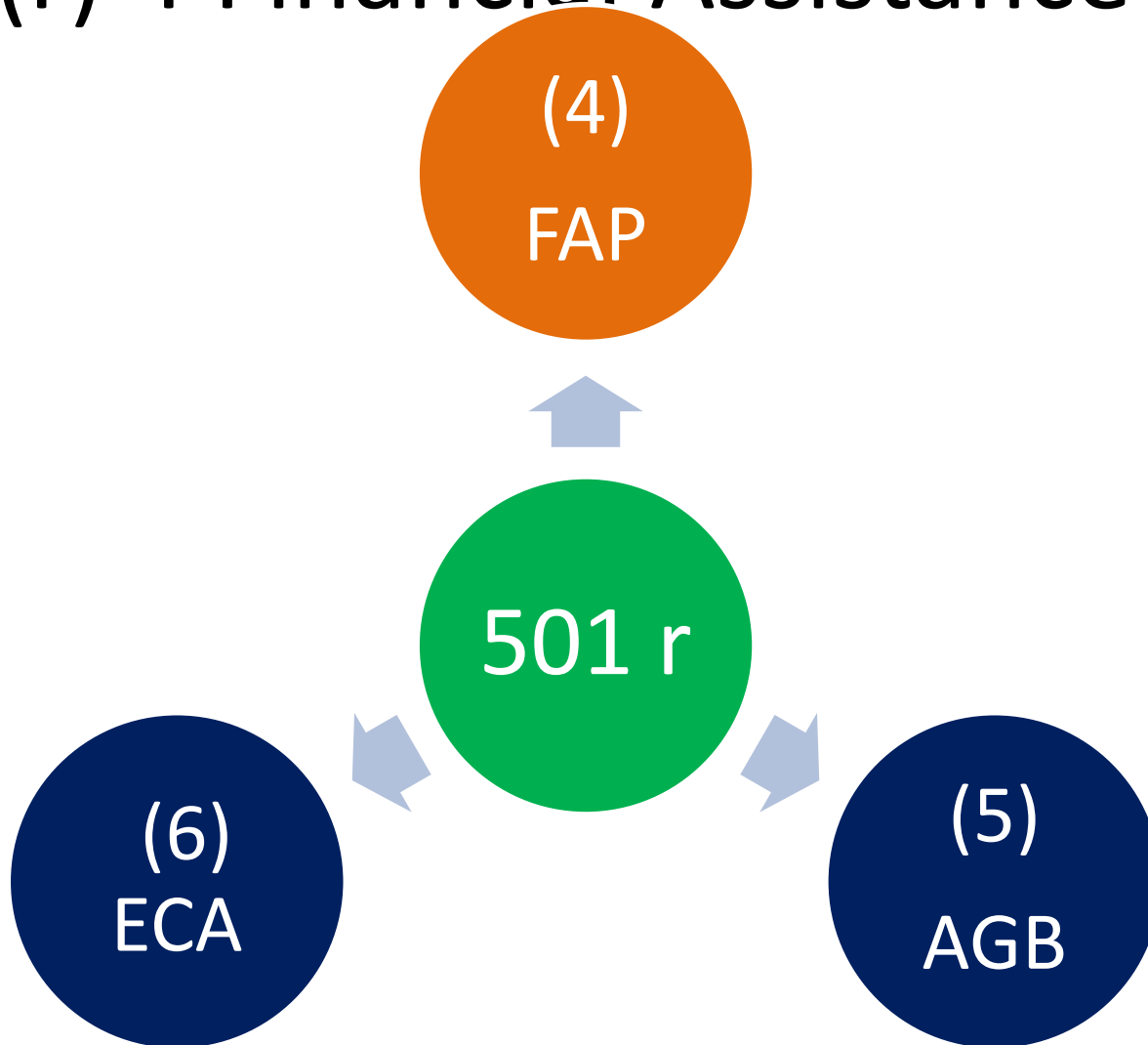
- Hospital systems
- Government hospitals
- Disregarded entities and partnerships

Who Must Comply?

- Government Hospitals -
 - The final regulations specifically called out government hospitals as an entity that has to comply.
 - On their website the IRS specifically call out government hospitals.

<https://www.irs.gov/charities-non-profits/section-501r-reporting>

501(r) 4 Financial Assistance Policy



Emergency / Medically Necessary

- A FAP ***must apply to all emergency and other medically necessary care provided by the hospital facility***, including all such care provided in the hospital facility by a substantially-related entity.
- For purposes of Section 501(r), emergency medical care is care provided by a hospital for emergency medical conditions as defined in Section 1867 of the Social Security Act (42 U.S.C. 1395dd). A hospital facility may (but is not required to) define medically necessary care under the laws of the state in which it is licensed, including the Medicaid definition, or a definition that refers to the generally accepted standards of medicine in the community or to an examining physician's determination.

<https://www.irs.gov/charities-non-profits/financial-assistance-policy-and-emergency-medical-care-policy-section-501r4>

Emergency / Medically Necessary

- Pharmacy?
- Nursing Home?
- Optometrist?
- Plastic Surgery?



(4)

FAP

Not Covered

What isn't Covered by Financial Assistance:

Does your FAP clearly state that non-emergency and non-medically necessary care will not be covered under your FA? If not, then 501(r) (5) applies and the use of gross charges cannot be used for elective procedures.

Medicaid Definition?



(4)

FAP

Not Covered

Example 1:

Services not eligible for financial assistance include the following:

1. Elective procedures not medically necessary, as well as services typically not covered by Medicare or defined by Medicare or other health insurance coverage as not medically necessary.
2. Services received from care providers not employed by XXX (e.g. private and/or non – XXX medical or physician professionals, ambulance transport, etc.) Patients are encouraged to contact these providers directly to inquire into any available assistance and to make payment arrangements. **See Appendix X for full listing of providers not covered under this policy.**
3. Deductibles and coinsurance associated with medically necessary services provided to patients out-of-network as defined by their insurers.



(4)

FAP

Eligibility Criteria

Improvement #1 –

- When does an application qualify determination get made according to your current policy?
 - **Silent on the matter**
 - **Date of service**
 - or **application date?**





(4)

FAP

Examples

My Suggestion:

A determination of financial assistance will be effective for a period of up to six (6) months include subsequent emergent or medically necessary care from the date the application was approved and will include all outstanding receivables including those at bad debt agencies unless a payment has been applied on the account. It is the patients responsibility to inform XYZ of a change in financial situation or the addition of third party payer eligibility may alter the approval period and require further review.



(4)

FAP

How it is FA is Calculated

Federal poverty guidelines using household income?

Schedule H 3. a, b, & c

(4)

FAP

Refunds

Improvements #2.

Create a separate write-off code that does not classify as financial assistance but still forgives the balance on accounts to limit refunding!

include all outstanding receivables including those at bad debt agencies **unless a payment has been applied on the account.**



(4)

FAP

Documents

W2, Paystubs, Assets and MORE!

Both your policy and application need to list the documents you are requiring.

If you do not request any documentation you cannot deny based upon lack of documentation.





(4)

FAP

Documents

Assets?

- **Yes** - Medicare Bad Debt Requires Assets!



(4)

FAP

Presumptive Determinations

- Hospital are ***not prohibited from using third party information sources*** and prior FAP-eligibility determinations to try to predict which of its patients are unlikely to be FAP-eligible.



(4)

FAP

Example of Presumptive

Improvement #3

Presumptive Financial Assistance Eligibility: XXX Hospital recognizes that some patients will be unable or otherwise unresponsive to traditional FAP processes; and in an effort to remove barriers for these patients and improve community benefits, the hospital will utilize public record and/or an electronic screening process after all other funding sources have been exhausted; and that the information returned via this electronic screening will constitute adequate documentation under the Hospital's policy. Below are the six cases of presumptive eligibility:

- A. Patients without any third party coverage and without the ability to qualify for third party coverage will be scored through PARO estimates (score, Federal Poverty Level estimates, and asset indicators) at the date the account is determined self pay. PARO estimates may be used to determine accounts eligible for full discount or partial discount based on financial need.
- B. Patients listed for collections will be scored through a credit bureau. All accounts that score below 499 that have no payments will be qualified for financial assistance.
- C. Patient is homeless or received care from a homeless clinic; or
- D. Patient is deceased with no known estate; or
- E. Patient has been approved by the court for bankruptcy estate.
- F. Patient is receiving Supplemental Nutrition Assistance Program (SNAP).



(4)
FAP

Amount Generally Billed

Those approved for financial assistance may not be charged more than the Amount Generally Billed for emergency or other medically necessary care?



(4)
FAP

Physicians on FAP

Did you create a list of all physicians (separate practices) that provide emergency or other medically necessary care in the hospital facility and specify which providers are **covered by the hospital facility's FAP and which are not?**

Follows Financial Assistance.	Does not follow Financial Assistance
Dr. ABC	Dr. XYZ





(4)

FAP

Physicians on FAP

1. Subject to certain conditions, the provider list may be contained in a separate document from the FAP, such as in an addendum or **appendix to the FAP**.
2. **If only the provider list is changed**, a hospital's authorized body is not required to re-adopt the FAP again.
3. If a hospital updates the **list of providers at least quarterly**, it will be considered to have taken reasonable steps to ensure the accuracy of the list and corrected any minor omissions or errors on the list, which are requirements of the regulations.

(4)

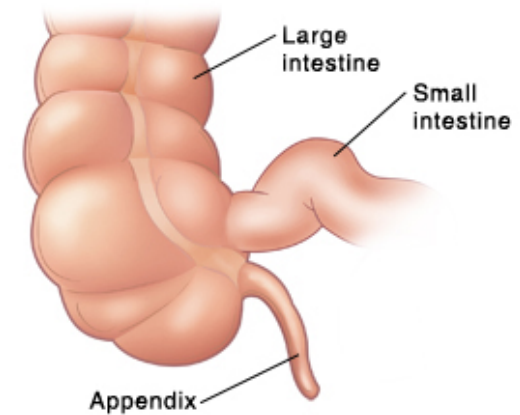
FAP

APPENDIX

Improvement #4

– Your New Best Friend!

1. Look back - AGB
2. Physician List – Updated Quarterly
3. Federal Poverty Guidelines





(4)

FAP

Catastrophic Care

Improvement #5

- Catastrophic Care: XXX patients not meeting financial assistance eligibility thresholds may be eligible for assistance under circumstances when XX medical bills would result in severe financial hardship. Patients, or their guarantors, may be eligible for catastrophic care assistance if they have incurred out-of-pocket obligations resulting from medical services provided by XXX that exceed 25% of family income and have assets below the equivalent of 600% of the FPL threshold.



(4)

FAP

Plain Language Summary

What is required on the Plain Language Summary?

1. The direct website address and physical location(s) where the individual can obtain copies of the FAP and FAP application form; and
2. physical location of hospital facility staff who can provide the individual assistance about the FAP and the FAP application process, or of the nonprofit organizations or government agencies, if any, that the hospital facility has identified as available sources of assistance with FAP application; and
3. how to apply for financial assistance.

What other items would you like to add in your plain language summary (example: a statement regarding patient responsibilities)?

Widely Publicized

Widely Publicize – 5 Requirements

1. Paper Copies Available at "Public Locations"
 1. emergency department
 2. admissions areas
 3. "Offer" as part of the intake (outpatient) or
 4. "Offer" discharge (inpatient) process are you offering patients about FAP?



Widely Publicized

Widely Publicize – 5 Requirements

1. Paper Copies Available at "Public Locations" (emergency and admission areas)

Documents to Have at these Locations -

- Financial Assistance Application Itself
- Plain Language Summary
- Financial Assistance Application
- Billing and Collection Policy



All four have to be translated at a threshold of 5% of the population or 1,000 individuals, whichever is less

Widely Publicized

Widely Publicize – 5 Requirements

2. Available on Website

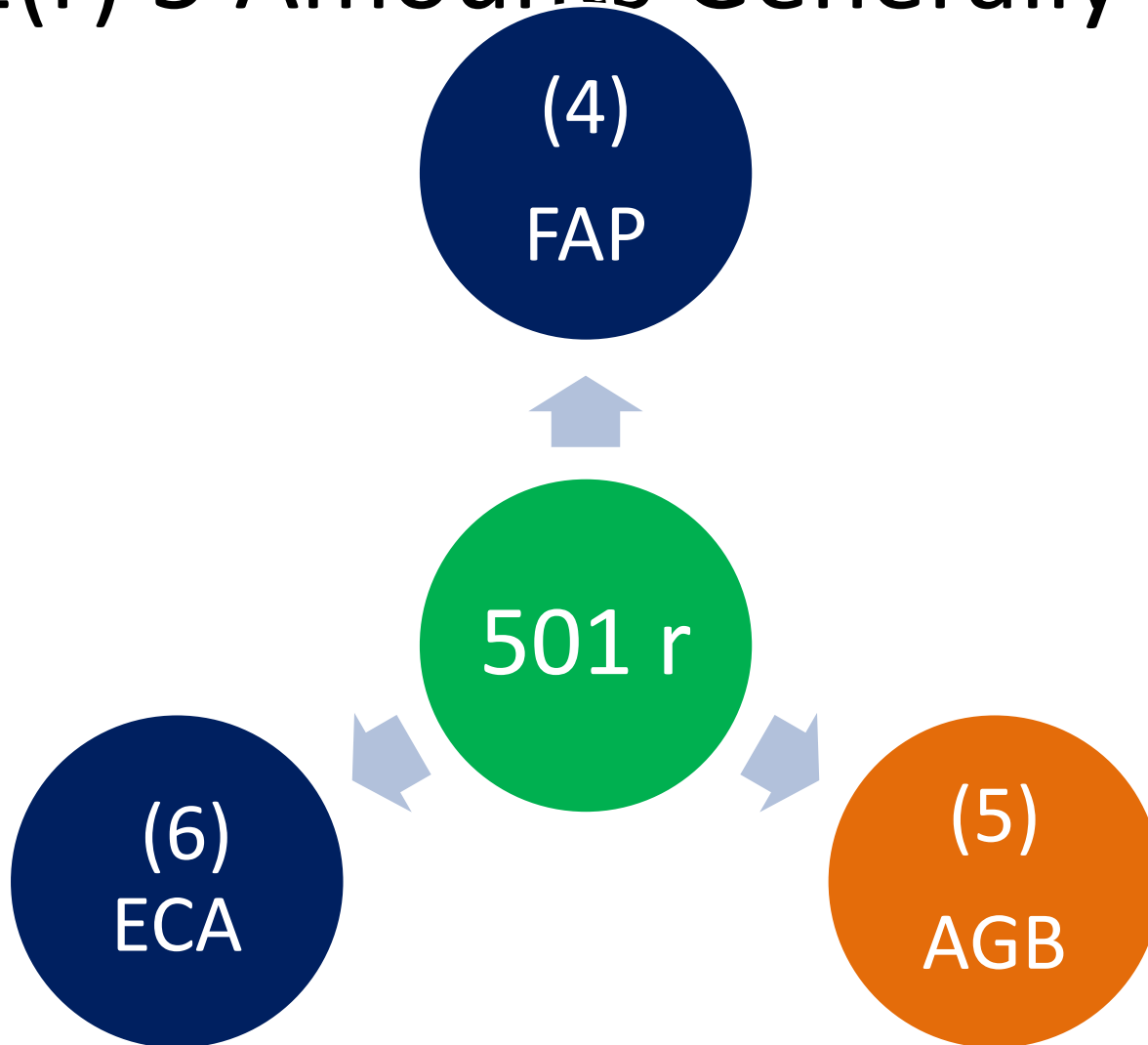
3. Conspicuous Written Notice on Every Statement -
Telephone Number for Assistance and Direct Website Address Where Copies of Documents may be Obtained.

4. Conspicuous Public Display – Signs that attract visitors of "noticeable size" and in minimum "public locations".

5. Notify and Inform the Community - Notifying and informing members of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members of the community who are most likely to require financial assistance, and



501(r) 5 Amounts Generally Billed





Amounts Generally Billed

- 1. Look back** – (Medicare Alone or Medicare with all Commercial Payers)

Update Annually and within 60 days of your fiscal year.

- 2. Perspective** – (What is Medicare Paying Today)





Amounts Generally Billed

Improvement #6

What if you only gave away 100% discount and NO sliding scale?

Spectrum in Michigan is doing this.



Q&A

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Thank you for attending!