

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.

Who We?

RIDICULOUSLY NICE

for

55

YEARS

Collections

Early Out

Agenda

1. Quick - background on 501r
2. 3 year audit by IRS
3. Discuss options for improvements, compliance, and procedures:
 1. 501r-6
 1. What are ECAs & Reasonable Efforts
 2. Application Period
 3. Billing and Collection Policy
4. Q&A

Background – 501(r)

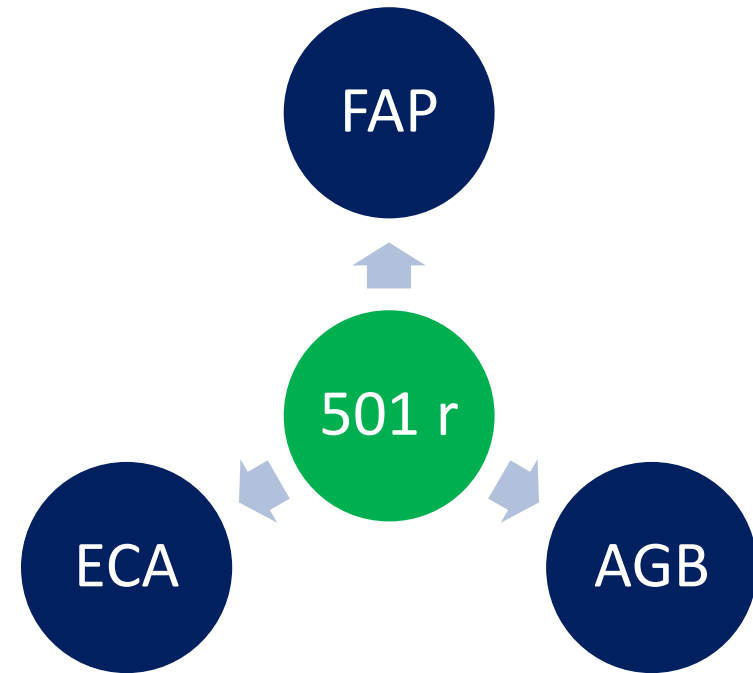
- 2005-2006 – Senator Grassley started inquiring about the “community benefit” for hospitals.
- 2008 – IRS released Schedule H on the 990.
- 2010 – IRS was required to create 501r.
- 2016 – IRS released the final version of 501r, but also released that hospitals must use a “good faith interpretation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



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

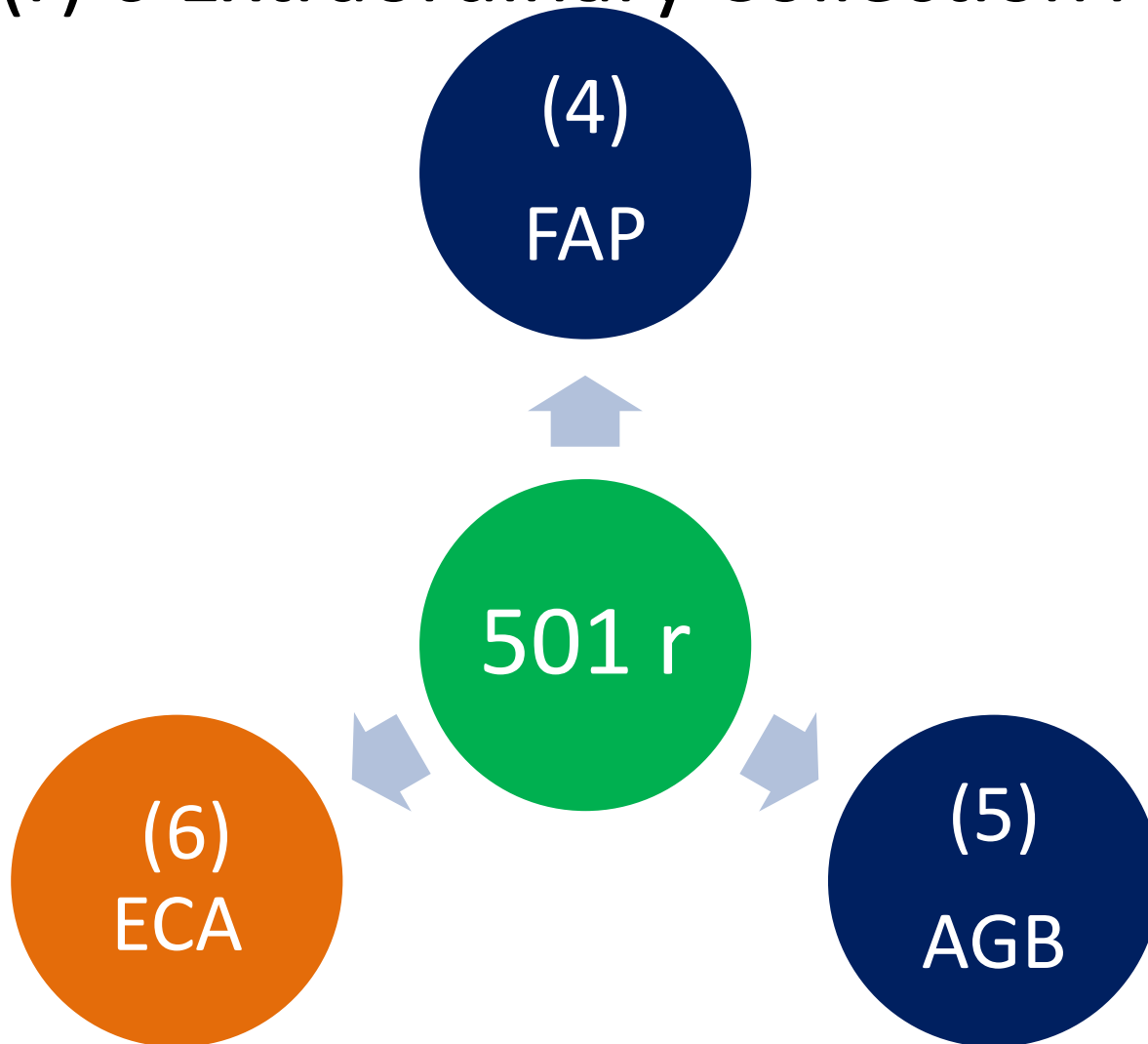
- Complaints from Patients in regards to 501r (No where in the regulation required this!)
- List of Providers for FAP (with date updated)

Noncompliance

IRS will allow hospitals to correct noncompliance before the audit and if minor.

Make Corrections Now!!!!

501(r) 6 Extraordinary Collection Actions





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ECA

Extraordinary Collection Actions (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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ECA

Extraordinary Collection Actions (ECA)

Define ECAs

- (1) Credit Bureau
- (2) Legal or Judicial Process
- (3) Selling Debt
- (4) Upfront Collections for Previous Care





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ECA

What are **NOT ECAs**?

- (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 Statement
- (5) Upfront Collections for the Current Care

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ECA

Reasonable Effort

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



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ECA

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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ECA

Reasonable Effort

1. Three Bills/Statements

Mail Returns:

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



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ECA

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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ECA

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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ECA

Reasonable Effort

2. Continued - Plain Language Summary:

What is Required 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.
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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ECA

Reasonable Effort

2. Continued - **Plain Language Summary:**

Examples:

<http://www.spectrumhealth.org/affording-care/financial-assistance/financial-assistance-eligibility-policy-plain-language-summary>

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ECA

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?





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ECA

Reasonable Effort

3. Continued - 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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ECA

Reasonable Effort

3. Continued - 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 signed/express permission from the patient!



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ECA

Reasonable Effort

3. Continued - Oral Communication: Improvement #8

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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ECA

Reasonable Effort

3. Continued - Oral Communication:

Early Out or IVR -

“Financial Assistance is available to those that qualify”

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ECA

Reasonable Effort

4. Final Notice-

1. The “Intended” ECAs,
2. Mentioning that Financial Assistance is Available, &
3. Give a 30 day Deadline before ECAs?





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ECA

Reasonable Effort

4. Continued - Final Notice- **Multiple Episodes of Care - Intended**

According to our records, your account is 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. **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.

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.

- Have you Defined a Process???
- Are your Collection Agencies Aware to Offer???

Collection Agency

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



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.

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?

Collection Policy

GET YOUR
FREE COPY



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

Q&A

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