



## **Charity Care and Community Benefit in Texas: Frequently Asked Questions**

*March 2025*

### **What is charity care?**

Charity care is free or discounted care for patients who are unable to pay. Patients qualify for charity care by demonstrating financial hardship according to the criteria in a hospital's charity care or financial assistance policy.

### **What are community benefits?**

Community benefits refer to hospital activities, programs or services that improve the health of their communities. Charity care is one piece of a hospital's portfolio of community benefits. Another is its Medicaid and indigent care shortfall – the unreimbursed cost of delivering care to low-income people who qualify for Medicaid or state and local indigent care programs. But the term "community benefits" also encompasses many other types of hospital programs, such as health screening programs and vaccination clinics, as well as housing, transportation and food-bank initiatives. Costs incurred to support workforce training and medical research are other categories of community benefits.

### **How is charity care regulated under federal law?**

Under the federal Affordable Care Act (ACA), nonprofit hospitals must establish and publicize a financial assistance policy, also known as its "charity care policy," to deliver free or discounted care for patients who aren't able to pay. The ACA also limits hospitals' ability to charge, bill or collect from patients who qualify for financial assistance. Beyond those basic requirements outlined in the ACA, charity care laws vary widely by state. Texas is one of the states with a charity care law that goes above and beyond the requirements of the ACA.

### **Who must comply with Texas' charity care law?**

All nonprofit hospitals must meet the charity care minimums prescribed in Texas law. Texas' charity care law defines nonprofit hospitals expansively. Under the Texas law, the term "nonprofit hospital" includes hospitals that are organized as nonprofit entities, are tax-exempt or are eligible for tax-exempt bond financing.

For purposes of the law's charity care and community benefit *reporting* requirements, it also defines certain public and investor-owned hospitals as "nonprofit" depending on whether they qualify for

Medicaid Disproportionate Share Hospital (DSH) status and the size and needs of the community they serve.

All hospitals subject to the law report their charity care and community benefits data to the Texas Department of State Health Services (DSHS) on a financial reporting instrument called the Annual Statement of Community Benefits Standard (ASCBS). DSHS measures and publicly reports hospitals' fulfillment of charitable duties under Texas law. In 2023, 215 hospitals were *required to report*.

### **What does Texas charity care/community benefit law require?**

Texas' charity care law is known as one of the most stringent in the nation, requiring nonprofit hospitals to provide a minimum amount of charity care annually.

They can do so in one of two ways:

- Be designated as a DSH, a status granted to facilities that provide care to the highest numbers of Medicaid and other low-income patients; or
- Provide charity care and community benefits in at least the amounts required by state law.

If a nonprofit hospital is not a DSH, the law gives three ways the hospital can demonstrate it provides the minimum amount of charity care required annually:

1. Provide charity care and community benefit amounting to at least 5% of the hospital's or system's net patient revenue, including 4% devoted to charity care and government-sponsored indigent health care<sup>1</sup>;
2. Provide charity care exceeding the value of the hospital's tax-exempt benefits; or
3. Otherwise demonstrate charity care is delivered at a reasonable level in relation to community needs, the available resources of the hospital and the tax-exempt benefits received by the hospital. *(This third option is rarely used; only about 5% of hospitals that have to comply with the law select this option each year.)*

If a nonprofit hospital does not meet the minimum charity care or community benefit standards, the hospital has to make up the shortfall in the following year, and is only allowed to use the make-up option once every five years. Otherwise, the hospital could lose its tax exemption.

### **How do Texas nonprofit hospitals do at complying with these state requirements?**

In 2023 – the latest year for which data by hospital is available – all 127 nonprofit hospitals in Texas that were required to meet charity care minimums did so.

That year, nonprofit hospitals subject to the law delivered \$8.1 billion in community benefits. These 127 hospitals cumulatively provided \$4.8 billion in charity care and unreimbursed government-sponsored indigent health care. That includes \$2.8 billion – or 139% – more than the amount required by the most common standard: the 5%/4% test.

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<sup>1</sup> Government-sponsored indigent health care includes unreimbursed Medicaid and other state and local government-sponsored indigent care costs remaining after base and supplemental payments.

When certain public and investor-owned hospitals also *required to report* their charity care are added to the nonprofits – a total of 215 hospitals – the value of unreimbursed charity care provided grows to \$7.7 billion, and all community benefits total \$12.9 billion.

<b>Community benefit type</b>	<b>Nonprofit (127 hospitals)</b>	<b>All Reporting Hospitals (Nonprofit, Public and Investor-Owned) Subject to Texas Charity Care Law (215 hospitals)</b>
Unreimbursed charity care and government-sponsored indigent health care	\$4.8 billion	\$7.7 billion
Unreimbursed costs of providing other community benefits	\$8.1 billion	\$12.9 billion
<b>TOTAL</b>	<b>\$12.9 billion</b>	<b>\$20.6 billion</b>

These data do not include the charity care and community benefits delivered by approximately 400 other licensed hospitals in Texas not subject to the charity care law’s reporting requirements.

### **What criteria do hospitals use to decide if a patient qualifies for financial assistance?**

Industry standards as well as federal and state law recognize that no single set of criteria for charity care is universally applicable to all hospitals. Hospitals have flexibility to set charity care policies according to their own mission, financial condition, social and economic profile of the community served and other factors. This flexibility does not prevent low-income patients from accessing meaningful charity discounts. According to state data, patients with incomes at or below 175% of the federal poverty level can receive free care at every single Texas nonprofit hospital.

Each hospital’s charity care policy describes the criteria used to establish charity care eligibility. Some hospitals use a presumptive process for certain eligibility categories, meaning that patients in certain categories (e.g., homelessness) are automatically presumed to qualify for financial assistance.

A hospital may decide which data it will use to determine a patient’s ability to pay. Data may be self-reported, or queried from external sources. Such data may include but are not limited to: income, net worth, employment status and eligibility for public assistance. Hospitals also vary in the sophistication of administrative tasks they can support in validating eligibility for charity care.

Hospital charity care policies may also accommodate changes in a patient’s financial circumstances. For example, a patient is ineligible for charity care at time of service but their ability to pay changes due to job loss within a time frame allowed by the charity care policy. In this example a patient could be evaluated multiple times, including after discharge, leading to forgiveness of all or part of their bill commensurate with their ability to pay.

Eligible patients can receive full or partial discounts available under the financial assistance policy. The discounted portion of the bill, up to 100%, carries no expectation of patient payment. Not all patients who are evaluated for financial assistance receive it. The following examples are a non-exhaustive list of reasons a patient account could be evaluated for financial assistance and not receive it<sup>2</sup>:

- Patient income is verified to be too high to qualify for the hospital’s charity care policy.
- Patient seeks financial assistance and is found to be eligible for another public program.

<sup>2</sup> Hospital charity care policies may differ in addressing eligibility for charity care when there is insufficient information, when information relied upon is found to be in error, or how determinations are modified based on changes over time in patients’ ability to pay.

- Information supplied by the patient and/or queried from external sources is insufficient to verify eligibility. Ability to pay cannot be reliably determined.

### **Are Texas nonprofit hospitals hiding their charity care policies from patients?**

No. Nonprofit hospitals must follow [federal](#) and state [law](#) requiring them to publicize information about their financial assistance or charity care policy on the internet and in conspicuous locations.<sup>3</sup>

Hospitals have a strong business incentive to correctly identify all charity-eligible patients and ensure they receive all assistance and discounts available to them. When a patient owes a balance they cannot pay, hospitals either incur billing expenses or bear the full cost of an uncollectible debt. Conversely, a hospital incurs no such costs on a charity discount. Accurate recording of charity care costs also has reimbursement and compliance implications for hospitals

### **How much are Texas hospitals reimbursed for the charity care they provide?**

Charity care, by definition, carries no expectation of payment from the patient on any portion of care that is discounted.

Texas hospitals receive partial reimbursement on uninsured charity care through two state-administered supplemental payment programs: the Medicaid 1115 waiver uncompensated care (UC) pool, and the Medicaid DSH program, for which the most charitable hospitals qualify. The purpose of these payments is to financially stabilize hospitals delivering large volumes of uninsured care. DSH and UC payments are offset against charity care and government-sponsored indigent health care costs in the 5%/4% nonprofit charity care test required by Texas law. In other words, nonprofit hospitals are still exceeding the state minimum charity care standards even after DSH and UC payments are considered.

In 2024, Texas DSH and UC hospitals – including those not subject to the charity care law – provided at least \$8.8 billion in uninsured charity care. DSH and UC payments together reimbursed hospitals \$5.1 billion on that care. The remaining \$3.7 billion in uninsured charity care went completely unreimbursed.<sup>4</sup> Furthermore, 40% of the DSH and UC supplemental payments come from hospitals' own money, meaning they only net about 60% of the gross payment.

Texas' nation-leading uninsured rate plays a role in Texas hospitals providing billions of dollars above the minimum required by law. That factor, plus perpetual underpayments from government payers such as Medicare and Medicaid, ensure that Texas hospitals will be eating millions in charity care costs for the foreseeable future.

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<sup>3</sup> 26 C.F.R. §1.501-4(b)(5).

<sup>4</sup> [Texas HHSC \(2024\). Texas Uncompensated Care Pool DY 13 Final Calculation File](#). Unreimbursed charity care estimates are lower than shown in the 2022 ASCBS data. This file uses different data sources (CMS/Texas HHSC), estimation methods, a different year (2023), and includes unreimbursed *uninsured* charity care only.