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NY Develops Charity Care Compliance Program; CCOs Everywhere May Want to Review 990s

By Nina Youngstrom

The Charities Bureau in the Office of the New York state Attorney General (AG) is developing a compliance program for charity care and the AG is advocating for significant changes to the statute governing nonprofit hospitals along the lines of a law taking effect in Minnesota on Nov. 1 that requires hospitals to screen uninsured patients for charity-care eligibility and prohibits them from denying services because of medical debt, among other things.[1]

"I expect next year to be a big year for us," said James Sheehan, chief of the New York state Charities Bureau. Hospitals should expect more scrutiny of their charity-care reporting and debt collection practices, similar to what's in motion in states like Massachusetts, Oregon, Washington and Maryland, he said. Adopting a model charity-care compliance program would go a long way to satisfying the state, although it will be a guidance document initially, Sheehan tells *RMC*.

It's a sign of the times, with legislators, regulators, the media and academics shining a spotlight on charity care and debt-collection requirements under IRS Sec. 501(r) and state laws. They're ripe for more oversight from compliance officers everywhere, including Schedule H on IRS Form 990, where tax-exempt hospitals report patient financial assistance and other community benefits, Sheehan said. "Compliance officers should have more of a role in reviewing 990s than they do," he said. "Typically, it's done by an accounting firm as an afterthought. There's a lot of stuff on there that your compliance officer should know about."

Some states have revised laws on charity care or are debating revisions. For example, as of July 2023, Maryland requires hospitals to refund patients who were charged for services from 2017 to 2021 when they could have qualified for free care, according to the Lown Institute.[2] Some states—including Texas, Illinois and Washington—now have minimum requirements for charity care, Sheehan said. And certain states are investigating hospitals, including Minnesota Attorney General Keith Ellison, who announced Aug. 18 his office is looking into Allina Health's billing practices in the wake of a New York Times article about Allina cutting off nonemergency care to patients with medical debt.[3] Five days later, Allina announced a change of direction. "Our policy that interrupted the scheduling of non-emergency, outpatient clinic care for patients who do not engage after significant outreach to support the resolution of their medical debt has been extensively reviewed. We have determined there are opportunities to engage our clinical teams and technology differently to provide financial assistance resources for patients who need this support. We will formally transition away from our policy that interrupted the scheduling of non-emergency, outpatient clinic care," Allina said in a statement. But Ellison's investigation will continue. "This announcement does not change our desire to hear from the public on this issue, and it does not change the scope of our investigation, which focuses both on Allina's past conduct and future practices," he said in a statement.