

# Can I Waive a Patient's Co-Pay?

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I am occasionally asked by providers whether or not they can waive a co-pay for a particular patient. There are many reasons providers wish to waive co-pays: financial hardship, professional courtesy, employee discounts, etc. All of these reasons are well justified and appropriately motivated. Further, all of these reasons would be appropriate for a client discount in almost any other industry (e.g., retail) except healthcare, which is one of the most, if not the most, highly regulated industries. Consequently, appropriate motivation is not always sufficient for giving "patient discounts" due to applicable legal restrictions. This article will focus on waiving co-pays for reasons related to financial hardship.

Federal regulations prevent the routine waiver of co-pays for Medicare and Medicaid patients. Similarly, other third-party payors may also contractually prohibit routinely waiving co-pays. Federal regulations, however, do allow the non-routine waiver of co-pays in situations of financial hardship as long as certain conditions are satisfied. The waiver may not be offered as part of any advertisement or solicitation, and the provider may only waive the co-pay after determining in good faith that the patient is in financial need. When looking at financial need, providers can examine a variety of factors, including cost of living, patient's income and assets, patient's family size, and the scope and extent of medical bills. There is some flexibility given to the provider in determining what constitutes a financial hardship. However, providers cannot consider the ability of the patient to generate business or referrals when making the determination. Eligibility for co-pay waivers should also not be based on race, age, creed, sex, religion, ancestry, marital status, disability, national origin, or any other legally protected category.

Thus, it is recommended that providers adopt a Financial Hardship Policy and utilize a Financial Hardship Application. The Financial Hardship Policy should set forth the guidelines used to determine financial need (e.g., patients earning below 150% of the federal poverty level are eligible for assistance) and should help ensure that such guidelines are applied uniformly. The Financial Hardship Application is designed to document the patient's financial condition and to gather supporting information (e.g., federal income tax return, recent paychecks, bank statements, inability to work letter, etc.). Based on the information provided by the patient in the Financial Hardship Application, as well as appropriate verification by the provider, the provider is in a position to make an informed, supported decision regarding financial need. The determination by the provider should be documented, and the determination, as well as the patient's financial situation, should be reviewed periodically---in other words, as the financial condition changes or as time passes, the provider should re-evaluate whether continuing to waive co-pays is appropriate. The Financial Hardship Application, the verification information, and evidence of the ultimate decision by the provider should be retained in the patient's file for at least six (6) years.

Thus, the answer to the question "Can I waive a patient's co-pay?" is "It depends." If the provider complies with the steps mentioned above and if the patient has a demonstrated financial hardship, then, yes, you can. If not, the reasoning behind the co-pay waiver and whether or not federal requirements are met will need to be further examined.

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