



## Blind Spots

**When was the last time you reviewed your compliance procedures related to 501(r)?**

By now, most collection agencies working in the health care space are aware of the Section 501(r) financial assistance policy requirements for tax-exempt charitable hospitals organized under section 501(c)(3) of the U.S. Code.

While these regulations have been in place for some time and have not been amended since their enactment, it's always beneficial to review your compliance procedures to ensure there are no gaps or potential blind spots. Likewise, for those thinking of entering the health care accounts receivable market, it can be crucial to understand these requirements in order to attract potential clients and reassure them about your operations.

The Affordable Care Act, enacted in 2010, added section 501(r) to the Internal Revenue Code with the intent of encouraging hospitals to devote more resources to charity care. In 2014, the IRS and the U.S. Treasury issued final regulations implementing the provisions of section 501(r).

Section 501(r) applies to charitable "hospital organizations" that assert the provision of hospital care as the basis for their tax-exempt status under section 501(c)(3). The IRS's implementing regulations impose four requirements on these hospital organizations: (1) a

community health needs assessment; (2) a written financial assistance and emergency medical care policy; (3) a limitation on charges; and (4) a limitation on certain collection actions.

Collection agencies and debt buyers need to pay attention to the billing and collection requirements imposed by the regulations, as well as the notification requirements relating to hospital's financial assistance policies (FAP).

Under the billing and collection requirements, hospitals must make "reasonable efforts" to determine a patient's eligibility under the FAP before engaging in "extraordinary collection actions" (ECAs) against that individual. This prohibition extends not only to the ECAs against the patient, but also against "any other individual who has accepted or is required to accept responsibility for the [patient's] care."

Under the regulations, a hospital will be deemed to have engaged in an ECA if any purchaser of the individual's debt, any debt collection agency, any other party to which the hospital facility has referred the individual's debt, or any substantially-related entity has engaged in such an ECA.

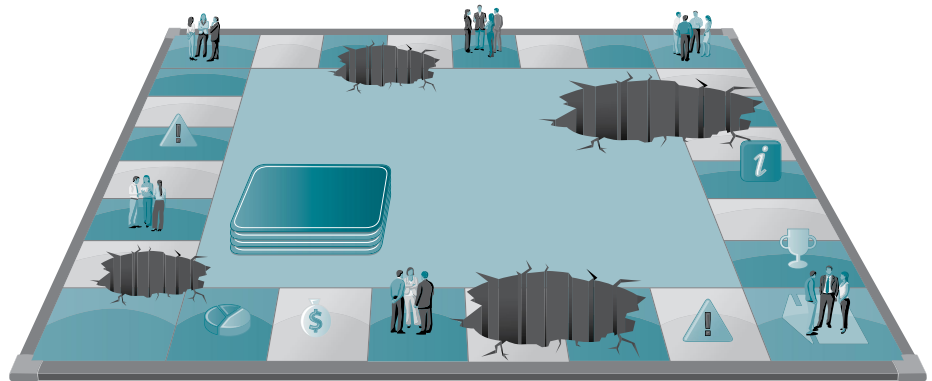
ECAs include activities that require a legal or judicial process. For example:

- Placing a lien on an individual's property;
- Foreclosing on an individual's real property;
- Attaching or seizing an individual's bank account or other personal property;
- Commencing a civil action against an individual;
- Causing an individual's arrest;
- Causing an individual to be subject to a writ of body attachment; and Garnishing an individual's wages.

As set forth in 26 CFR Section 1.501(r)-6, ECAs do not include: (1) certain debt sales; (2) liens on certain judgments, settlements, or compromises; and (3) claims filed in a bankruptcy proceeding.

Before pursuing an ECA, a hospital must make "reasonable efforts" to notify the individual about the hospital's FAP. Additionally, a hospital must wait 120 days before initiating an ECA against a patient whose FAP-eligibility is undetermined.

The regulations also provide a 240-day period, during which a hospital facility



## SMALL BUSINESS

# U.S. Chamber Publishes COVID-19 Loan Guide to Help Small Businesses

Assistance is available for qualifying companies; don't let too much time pass before you apply!

During the height of the COVID-19 pandemic, the U.S. Chamber of Commerce created a guide to help small businesses, independent contractors and other related business personnel prepare to file for a coronavirus relief loan under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, according to a press release issued by the Washington, D.C.-based organization.

The U.S. Chamber's Coronavirus Small Business Guide (available at [uschamber.com/sbloans](https://uschamber.com/sbloans)) outlines the steps small businesses should take to prepare to access much-needed funds to help keep their workers on the payroll during this disruptive period. Further guides will be developed as the CARES Act is implemented.

"The U.S. Chamber of Commerce is working with state and local chambers across the country to provide businesses with the information they need to stay afloat and keep people employed during the pandemic," said Suzanne Clark, president of the U.S. Chamber of Commerce. "This comprehensive guide ensures small business owners fully understand what aid is available to them and how to access those funds as quickly as possible. We remain committed to ensuring no family or business goes bankrupt due to financial hardships associated with the coronavirus."

Lenders began processing Paycheck Protection Program loan applications on Friday, April 3. Although the program will accept applications until June 30, 2020, most experts anticipate that the \$349 billion fund will be exhausted quickly. **Apply Early!**

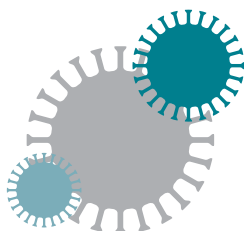
Additionally, to help small businesses, the U.S. Chamber of Commerce compiled an interactive map to show the aid available to the public on a state-by-state basis (click here <https://tinyurl.com/wtyb2zy> for additional information).

In March, Congress passed the CARES Act which allocated \$350 billion to help small businesses keep workers employed amid the pandemic and economic downturn. Known as the Paycheck Protection Program, the initiative provides 100 percent federally guaranteed loans to small businesses that maintain their payroll during this emergency. Furthermore, these loans may be forgiven if borrowers maintain their payroll during the crisis.

The U.S. Small Business Administration posted additional guidance (<https://tinyurl.com/uon96cm>) about the Paycheck Protection Program to its website in April, including a sample application.

### Resources

- The Small Business Guide may be accessed here: <https://tinyurl.com/v7727v9>
- The interactive map may be accessed here: <https://tinyurl.com/wtyb2zy>
- Information about the Paycheck Protection Program may be accessed here: <https://tinyurl.com/uon96cm>
- The U.S. Small Business Administration's website is located at [sba.gov](https://sba.gov)



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## STATE LEGISLATURES

# New Medical Debt Collection Bill on the Books in Idaho

### Idaho Collectors Association engaged in grassroots activities associated with the bill.

Idaho Gov. Brad Little in March signed a bill that places limits on medical debt collection, according to an article published in the Post Register.

The Idaho Patient Act, which takes effect Jan. 1, 2021, requires providers to submit a bill to a patient's insurance or to the patient within 45 days of providing a service or discharging the patient, and to send the patient a summary of services within 15 days after that. From there, no interest could be charged for another 60 days, and a medical provider could not sue a patient or turn a bill over to collections until 90 days after a patient

receives a final statement, the Post Register said.

The Idaho Collectors Association was involved in a grassroots campaign to educate key lawmakers about the potential impact of the requirements within the bill.

#### Resources:

- To read more from the Post Register, click here: <https://tinyurl.com/w486n8d>
- ACA International's coverage of the bill may be accessed here: <https://tinyurl.com/w4zjz3x>

### Blind Spots *cont. from page 1*

is required to process any application submitted by the individual. While the requirements to notify patients of the FAP prior to taking an ECA ultimately apply to the hospital, collection agencies that contract with hospitals may have an obligation to meet these regulatory requirements.

And while neither the statute nor the regulations provides for a private right of action for violations, a failure to comply can jeopardize the tax-exempt status of the hospital, potentially raise liability related to the loss of that tax-exempt status, and spoil the debt collector or debt purchaser's relationship with the hospital. As a result, both hospitals and their agents must understand the regulations.

Fortunately, ACA International members have access to SearchPoint document #6248, "501(r) Final Regulations for Charitable Hospitals," which our compliance analysts have

recently updated with new case law. It's always beneficial to work with your charitable hospital clients to periodically review any collection and billing policies to ensure procedures are being followed by the hospital and agency.

*Have you checked out ACA's member-only SearchPoint library? ACA SearchPoint is filled with documents that put important compliance information related to the FDCPA, FCRA, TCPA, state laws and many other topics at your fingertips. To access ACA SearchPoint, visit [acainternational.org/searchpoint](https://acainternational.org/searchpoint).*

## NEWS & NOTES

### COVID-19, The ARM Industry

ACA International continues to follow all aspects of the COVID-19 crisis as it relates to the accounts receivable management industry. Aside from ACA's Daily Huddle recordings featuring regulatory and legislative updates, staff compiled an in-depth list of state orders and directives concerning business activities throughout the outbreak. The information is available on ACA's website at [www.acainternational.org](https://www.acainternational.org), accessible by clicking the blue button titled "COVID-19: ACA Updates."

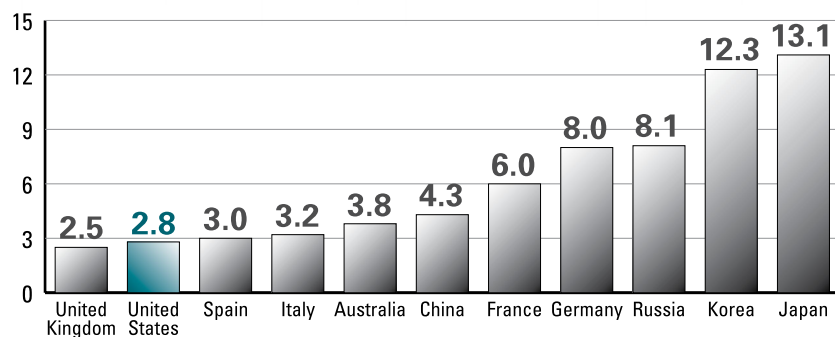
### Scholarships Available

It's not too late to apply for the Loomer-Mortenson Scholarship program for the 2020/2021 school year. The deadline to submit applications is May 15, 2020 – so if you know someone who may need financial assistance, encourage them to apply. Read more here: <https://www.acainternational.org/about/ief>

For more health care collections news, visit ACA's Health Care Collections page at [www.acainternational.org/pulse](https://www.acainternational.org/pulse).

## Hospital Beds: How the U.S. Compares to Other Countries

The Organisation for Economic Co-operation and Development study indicates in the U.S. there are 2.8 beds per 1000 inhabitants in 2016.



Source: OECD (2020), Hospital beds (indicator). doi: 10.1787/0191328e-en  
(Accessed on 03 April 2020)