

Jacksonville Area Legal Aid, Inc.

A Wealth of Justice for Those Who Have Neither

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June 20, 2017

Patient Access Director
655 West 8th Street
Jacksonville, Florida 32209

Via Certified Mail

RE: [REDACTED] & [REDACTED] – Appeal from denial of eligibility for UF Health Jacksonville’s Financial Assistance Program

To Whom It May Concern:

I represent [REDACTED] and [REDACTED] in their appeal of UF Health – Jacksonville’s finding that they are ineligible for a Shands Card under the Indigent City Contract Program. They bring this appeal pursuant to Section III of UF Health Jacksonville’s Policy regarding the Financial Assistance Program (“FAP policy”). A copy of the FAP policy is attached hereto as Ex. #1.

FACTS

Mr. and Mrs. [REDACTED] applied for asylum immigration status on November 21, 2013. Proof of those applications are attached hereto as Ex. #2. Their asylum applications are still pending.

On May 22, 2017, Mr. and Ms. [REDACTED] applied for the Financial Assistance Program. On that same day, UF Health - Jacksonville denied their eligibility for the Financial Assistance Program citing “Other – work authorization only.” Please see the denial attached hereto as Ex.

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APPLICABLE LAW & ANALYSIS

The eligibility requirements for UF Health – Jacksonville’s Financial Assistance Program are set forth in the FAP policy. The Financial Assistance Program is administered in accordance with a Letter of Agreement executed between the Agency for Healthcare Administration (AHCA), the City of Jacksonville (COJ), and UF College of Medicine (attached hereto as Ex. #4). According to Section I(B)(3)(iii) of the FAP policy, “[f]inancial assistance will not be granted...to non-United States Citizens with the following exceptions...[a]pplicant provides Refugee or Asylum documentation.” Notably, in reviewing the Letter of Agreement between AHCA and COJ, there is no mention of an immigration status requirement for purposes of reviewing eligibility for the Financial Assistance Program. The Letters of Agreement only eligibility requirements are set forth in the Definition section and are limited to an assessment of a patient’s income.

Pursuant to the Hill-Burton Act, any facility that receives Federal assistance under title VI or XVI of the Public Health Service Act, must comply with a community service assurance. *See* 42 C.F.R. 124.601. For a facility “to comply with its community service assurance, [it]...shall make the services provided...available to all persons residing in the facility’s service area without discrimination on the ground of race, color, national origin, creed, or any other grounds unrelated to an individual’s need for the service.” 42 C.F.R. 124.603(a)(1). Furthermore, a “facility shall take any necessary steps to insure that admission to and services of

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the facility are available to beneficiaries of government programs¹...without discrimination or preference because they are beneficiaries of those programs.” Although, “any necessary steps” are not specifically defined in the regulations, it is well-established that access to any governmental program requires fundamental procedural due process including the exclusion of any arbitrary and capricious practices or enforcement of vague language. [cite]

Additionally, according to the Internal Revenue Code, hospital organizations that fall under 26 U.S.C. 501(r)(2)² must meet the “financial assistance policy requirements.” 26 U.S.C. 501(r)(1)(A). The financial assistance policy requirements under the Code mandate that “a written financial assistance policy...[include]...*eligibility criteria* for financial assistance” (emphasis added).

Mr. and Mrs. [REDACTED] were denied eligibility in the Financial Assistance Program based on, presumably, their immigration status. The FAP policy requires that, in order for financial

¹ “Government programs” are defined as “those principal State and local governmental third-party payors that provide reimbursement for services that is not less than the actual costs, as determined in accordance with accepted cost accounting principals.” 42 U.S.C. 124.603(c)(1)(i). The Financial Assistance Program operated by UF Health Jacksonville in accordance with the Hospital LIP/DSH Letters of Agreement falls under the definition of “government program” and, as such, UF Health Jacksonville must abide by the Hill-Burton Act and its implementing regulations in administering the Financial Assistance Program.

² 26 U.S.C. 501(r)(2) specifically provides that:

“This subsection shall apply to—

- (i) an organization which operates a facility which is required by a State to be licensed, registered, or similarly recognized as a hospital, and
- (ii) any other organization which the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under subsection (c)(3) (determined without regard to this subsection).

Because UF Health – Jacksonville administers the Financial Assistance Program under the Letter of Agreement, it must abide by the regulations set out in 26 U.S.C. 501(r)(2).

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assistance to be granted, an “applicant provide...Asylum documentation.” As currently drafted, the FAP policy does not provide clear, non-vague eligibility criteria that comports with due process in its requirement that an applicant provide “Asylum documentation” to qualify for assistance. Without clear guidelines as to what constitutes “Asylum documentation”, UF Health – Jacksonville contravenes its obligations under the Hill-Burton Act and the Internal Revenue Code which require that participating healthcare facilities establish and publish clear eligibility requirements for their Financial Assistance Program. We ask that UF Health-Jacksonville provide a list specific documents that qualify as “Asylum documentation” under the FAP policy both to the [REDACTED] as well as to any other applicants for the Financial Assistance Program. In addition, we request that UF Health – Jacksonville re-evaluate the [REDACTED]’s eligibility for the Financial Assistance Program because they have provided proof of their pending asylum applications.

Furthermore, under the Hill-Burton Act, in order to meet its community service assurance, no participating facility is to deny access to services based on factors unrelated to an individual’s ability to pay, including national origin. The [REDACTED]’s status as pending asylum applicants from Haiti is unrelated to their ability to pay for healthcare services. Instead, the [REDACTED]’s immigration status is related to their national origin. As such, denying their eligibility for the Financial Assistance Program constitutes “discrimination on the ground of...national origin...unrelated to an individual’s need for the service” and therefore, violates the provisions of the Hill-Burton Act. In reviewing the [REDACTED]’s eligibility for the Financial Assistance Program, we request that you take these non-discrimination provisions under consideration.

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As stated in the FAP policy, please provide written notification of the appeals outcome to my office. You can also contact me with questions or concerns thru email at: katy.debriere@jaxlegalaid.org or phone at: 904-356-8371, x. 333. Thank you for your prompt attention to this matter.

Sincerely,

Katy DeBriere
Managing Attorney
Northeast Florida Medical Legal Partnership

CC: General Counsel