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Negotiation of Discounts with Hospitals

Sec. 19a-166-1. Definitions

(a) The definitions provided by Section 19a-166 (a) of the General Statutes shall govern the interpretation and application of Sections 19a-166-1 through 19a-166-5, inclusive.

(b) In addition thereto and except as otherwise required by the context:

(1) "Blue Cross" means any consolidated hospital and medical service corporation in existence on July 1, 1982, and any successors.

(2) "Charges" means the amount that a hospital is permitted to bill for patient services or cases.

(3) "Discount" means a reduction by a hospital of its charges for patients for the benefit of a payer.

(4) "Fiscal year" means the fiscal year commencing on October 1 and ending on September 30.

(5) "Gross hospital charges" means the total amount of charges the hospital is permitted to bill for patient services or cases.

(6) "Rates" means the same as charges.

(Effective March 12, 1986)

Sec. 19a-166-2. Prompt payment and administrative services discounts

(a) **Negotiation of Discounts.**

(1) A payer may negotiate with a hospital to obtain a prompt payment or administrative services discount as provided for in Section 19a-166, G.S. Such discounts shall not exceed the amounts specified in Section 19a-166 (d), G.S., for prompt payment and Section 19a-166 (e), G.S., for administrative services.

(2) No hospital may require a payer to negotiate for another element or any combination of elements of a prompt payment or administrative services discount, in order to negotiate for or obtain a discount for any single element.

(3) No hospital may require a payer to negotiate a discount for all patients covered by such payer in order to negotiate a discount for any patient or group of patients covered by such payer.

(4) No discount shall be contingent on volume.

(5) No discount shall be based on criteria unique to one or more payers so as to preclude other payers from qualifying for such discount.

(6) Any payer who is required by a hospital to negotiate an agreement in violation of paragraphs (2) through (5), inclusive, above, may petition the commission for a hearing pursuant to subsection (f), below.

(b) **Filing of Discount Agreements.**

(1) Any hospital which agrees to provide a discount to a payer for prompt payment pursuant to Section 19a-166 (d), G.S., or for administrative services pursuant to Section 19a-166 (e), G.S., and as provided for in these regulations, shall file a copy of such agreement in its entirety with the commission.

(2) All agreements in effect currently will be filed in their entirety by the hospital with the commission within 15 days of the effective date of these regulations.

(3) Any agreements negotiated in the future shall be filed in their entirety by the hospital with the commission within 30 days after formal agreement.

(4) Any changes in agreements shall be filed by the hospital with the commission within 30 days of such change.

(c) **Content of Agreements.** The agreements filed pursuant to subsection (b) of this section shall specify but not be limited to the following:

(1) The names and addresses of the hospital and the payer(s) who are parties to the agreement;

(2) The effective date of the agreement;

(3) The term of the agreement;

(4) The type and amount of each discount provided for in the agreement;

(5) The patients or types of patients covered and/or not covered by the agreement;

(6) The services or types of services covered and/or not covered by the agreement; and

(7) Any other conditions or stipulations which are to be complied with to obtain the discount specified in the agreement.

(d) Review of Agreements.

(1) The commission shall review such agreement, filed pursuant to subsection (b) of this section within 10 business days of the filing for compliance with the content of agreements pursuant to subsection (c), of this section. If such agreement is already on file with the commission, the commission shall review such agreement within 30 days of the effective date of these regulations, as provided for in this paragraph. The commission will notify the hospital of any deficiencies within 10 business days of the filing.

(2) Any such deficiencies identified by the Commission pursuant to paragraph (1), above, shall be corrected by the parties and resubmitted to the commission within 30 days of the notice of deficiencies. Failure to correct such deficiencies within the specified time limits will render the agreement ineffective until such time as the deficiencies are corrected.

(3) The commission shall review such agreement filed pursuant to subsection (b) of this section within 30 days of the filing of the agreement or within 30 days of the filing of an amended agreement pursuant to (2), above, whichever is later. If the commission finds that such agreement provides for a discount which is in excess of the maximum amount set forth in subsections (d) or (e) of 19a-166, G.S. or which is contingent on volume or drafted in such a manner as to limit the discounts to one or more payers by establishing criteria unique to such payers, the commission shall disallow such agreement. The commission shall notify the hospital in writing of such disallowance within 15 days of the review date above. A hospital which receives notice from the commission that such agreement has been disallowed may petition the commission for a hearing to reconsider its decision disallowing such agreement pursuant to subsection (f) of this section.

(e) Effect of Filing of Agreement.

(1) Any hospital which has filed an agreement to provide a discount to a payer under subsection (d) or (e) of section 19a-166, G.S. shall provide the same discount to any other payer who agrees to make prompt payment or provide administrative services similar to that contained in such agreement, provided such agreement has not been disallowed by the Commission pursuant to subsection (d) of this section. For purposes of this regulation, the term "similar to" shall mean the offering of a discount on terms which are substantially the same as the terms contained in an existing agreement. Any hospital which has filed an agreement and which refuses to provide such discount to any other payer shall notify such other payer in writing within 30 days of receipt of such other payer's offer. Such notification shall set forth the reasons for such refusal.

(2) Any payer who has received notification from a hospital of such refusal pursuant to paragraph (1), above, or who has extended an offer and has not received

written notification of refusal within 30 days of the making of an offer may petition the commission for a hearing pursuant to subsection (f) of this section.

(f) Petition Process.

(1) Any hospital or payer aggrieved under Section 19a-166 (g), G.S. or as provided for in subsections (a) (6), (d) (3) and/or (e) (2) of this section, may petition the commission in accordance with Sections 19a-160-11 to 19a-160-53, inclusive, of the commission's regulations for an order to respond to the petition.

(2) The hospital or payer shall be afforded notice of the petition and the opportunity to be heard in accordance with the provisions of Chapter 54, G.S. and Sections 19a-160-29 through 19a-160-46, inclusive, of the commission's regulations.

(Effective March 12, 1986)

Sec. 19a-166-3. Additional blue cross discounts

(a) Negotiation of Discounts.

(1) Blue Cross may negotiate with a hospital to obtain a discount in addition to any discount provided under Sections 19a-166 (d) and 19a-166 (e), G.S., as provided for in Section 19a-166 (h), G.S. In aggregate for all hospitals providing such a discount to Blue Cross, the total amount shall not exceed the amounts specified in Section 19a-166 (h) (1), G.S.

(b) Filing of Discount Agreements.

(1) Any hospital which agrees to provide a discount to Blue Cross pursuant to Section 19a-166 (h), G.S., shall file a copy of such agreement in its entirety with the commission. The agreement shall specifically indicate the amount of additional Blue Cross discount provided pursuant to Section 19a-166 (h), G.S.

(2) All agreements in effect for fiscal year 1985 and subsequent years' agreements currently in effect will be filed in their entirety by the hospital with the commission within 15 days of the effective date of these regulations.

(3) Any agreements negotiated in the future shall be filed in their entirety by the hospital with the commission within 30 days after formal agreement.

(4) Any changes in agreements shall be filed by the hospital with the commission within 30 days of such change.

(c) Calculation of Allowable Discount.

(1) Within 15 days of the effective date of these regulations and on February 28, 1987 and annually thereafter, for as long as a discount is provided under Section 19a-166 (h), G.S., Blue Cross and the hospitals will, on forms provided by the commission, file such information that the commission deems necessary to verify compliance with the provisions of this section and section 19a-166 (h), G.S. Such information may include but not be limited to:

(A) The total gross hospital charges by hospital for the most recently completed fiscal year;

(B) The total gross hospital charges by hospital for Blue Cross covered patients for the most recently completed fiscal year; and

(C) The total dollar amount of additional Blue Cross discount provided pursuant to Section 19a-166 (h), G.S. for each hospital for the most recently completed fiscal year.

(2) Based on the information filed pursuant to (1), above, the commission will calculate the allowable discount and the amount of refund by Blue Cross to the hospitals as follows:

(A) For each hospital the total gross hospital charges for Blue Cross will be multiplied times the Blue Cross additional discount percentage per the hospital's

agreement filed pursuant to subsection (b) of this section. This product will be called the additional Blue Cross discount amount.

(B) The product of (A), above, for each hospital will be added and the total divided by the sum of the total gross hospital charges for Blue Cross for each hospital.

(C) If the amount computed pursuant to (B), above, exceeds the percentage allowed pursuant to Section 19a-166 (h), G.S., the discount percentage for each hospital will be reduced by each hospital's proportional share of the total additional Blue Cross discount amount computed in (A), above. This computation will result in an allowable Blue Cross percentage discount for each hospital.

(D) For each hospital, the allowable Blue Cross percentage discount computed pursuant to (C), above, will be multiplied times the hospital's total gross hospital charges for Blue Cross. The product of this calculation will be called the hospital's allowable additional Blue Cross discount amount.

(E) For each hospital, the difference between the additional Blue Cross discount amount calculated pursuant to (A), above, and the allowable additional Blue Cross discount amount will be computed. This difference by hospital will represent the amount to be refunded by Blue Cross to the applicable hospital.

(3) Within 60 days of receipt of the information specified in (1), above, the commission will render a decision indicating any amounts to be refunded by Blue Cross to the hospitals.

(4) For any FY 1985 amount to be refunded by Blue Cross, the amount of refund will be a reduction of FY 1987 authorized revenues for hospitals subject to the provisions of section 19a-164 through 19a-165q, inclusive, G.S.

(d) Refund of Excess Blue Cross Discount.

(1) Within 60 days of the commission's decision under subsection (c) (3) of this section, Blue Cross will refund to all hospitals any amounts determined by the commission to be due.

(2) Blue Cross will file within 75 days of the commission's decision under subsection (c) (3) of this section, documentation acceptable to the commission to substantiate that such refunds were made.

(Effective March 12, 1986)

Sec. 19a-166-4. Eligible organization discounts

An eligible organization, as described in 42 U.S.C. Section 1395ww (c) (1) (D), may directly negotiate for a different rate or method of reimbursement with a hospital, as provided for in Section 19a-166 (c), G.S. However, the cost of providing services to patients covered by such eligible organizations shall not be borne in any part by patients not so covered.

(Effective March 12, 1986)

Sec. 19a-166-5. Other discounts

Except as provided for in Section 19a-166, G.S. and Sections 19a-166-1 through 19a-166-5, inclusive, of these regulations, no hospital shall reduce its charges for the benefit of any payer.

(Effective March 12, 1986)