

INTERESTED PARTY WRITTEN COMMENTS

Regarding the Application for Certificate of Need Submitted by Johns Hopkins Bayview Medical Center - Docket No. 18-24-2414

Please accept this document as the Interested Party written comments from the American Federation of Labor – Congress of Industrial Organization (AFL-CIO) regarding the Certificate of Need (CON) application associated with the campus redevelopment project of Johns Hopkins Bayview Medical Center (JHBMC) (Docket Number 18-24-2414) currently before the Maryland Health Care Commission (Commission). In addition, we make the following requests: one, for the opportunity to present oral arguments prior to the preparation of a proposed decision, two, for an evidentiary hearing, and, three, for written notice of any further proceedings. Thank you for your attention to this matter. We would be pleased to answer any questions that you may have regarding these comments.

Pursuant to COMAR §10.24.01.08F(l), the AFL-CIO qualifies for interested party status in the review of JHBMC's Application. Any "interested party" is entitled to file written comments in a CON proceeding. COMAR § 10.24.01.08F. An "interested party" includes "[a] person who can demonstrate to the reviewer that the person would be adversely affected, in an area over which the Commission has jurisdiction, by the approval of a proposed project." COMAR §10.24.01.01(B)(20)(e). An "adversely affected" person includes an entity that "can demonstrate to the reviewer that the person could suffer a potentially detrimental impact from the approval of a project before the Commission, in an issue area over which the Commission has jurisdiction." §10.24.01.01(B)(2)(d).

The AFL-CIO qualifies as an interested party under this provision. The AFL-CIO is a federation of 55 national and international unions representing 12.5 million working people, including affiliate locals who represent working people in Maryland, the District of Columbia, and Virginia. The workers in Maryland, the District of Columbia and Virginia are part of the population in the service area of the

Johns Hopkins Bayview Medical Center and thus either have already been or may in the future be patients at JHBMC. These international and national affiliates and their local unions who represent these workers in the above-named states and the District, negotiate with employers over health benefits for these employees and/or jointly administer multi-employer health plans, and thus are acutely concerned with both the quality of health care and the increased costs at hospitals in Maryland. Moreover, some employees these unions represent may lack health insurance for some periods of time and thus be entitled to charity care under state law. Finally, the AFL-CIO as the employer of its own staff participates as one of multiple employers in a self-insured, multi-employer health plan that provides health benefits to active employees, their dependents and retirees (primary coverage for retirees under 65 and secondary coverage for Medicare eligible retirees) and their dependents, many of whom reside in the service area of the JHBMC. Thus the AFL-CIO is an interested party because the organization and the workers it represents could suffer detrimental impact if the Certificate of Need is approved over the areas of quality of care, cost of health care and entitlement to charity care, all areas over which the Commission has jurisdiction.

Summary of Written Comments

Johns Hopkins Bayview Medical Center's (JHBMC) Certificate of Need application for the redevelopment of its campus should be denied due to the hospital's failure to follow the general standards for the State Health Plan for Acute Care Hospital Services (COMAR 10.24.10) and COMAR §10.24.01.08(G). Specifically, the hospital has failed to implement in full the Charity Care Policy mandated in the State Health Plan and under Maryland law, COMAR §10.37.10.26. Additionally, JHBMC's proposed rate increase to help finance the project would cause unwarranted adverse impact on hospital charges and should not be allowed. Finally, JHBMC has fallen below the national and state averages on a number of key measures of quality of care. These indicators need to improve before the

hospital begins the massive and complicated construction project it proposes. The project must not be approved until JHBMC demonstrates that it has remedied the problems listed above.

In the written comments below, we provide details on how JHBMC has failed to implement required charity care policies, why its proposed rate increase is unwarranted, and how the hospital is failing on a number of quality indicators.

FAILURE TO IMPLEMENT CHARITY CARE POLICIES

Maryland law requires acute care hospitals under the jurisdiction of the Maryland Health Care Commission to develop and implement a charity care policy that provides, at a minimum, free medical care to patients with family income at or below 200 percent of the federal poverty level, reduced-cost care to low-income patients with family income between 200 and 300 percent of the federal poverty level, and reduced-cost care to patients with family income below 500 percent of the federal poverty level who have a financial hardship. State law also provides "Presumptive Eligibility for Free Care" for patients who are beneficiaries of a means-tested assistance programs, including free/reduced lunch, Supplemental Nutrition Assistance Program (SNAP), energy-assistance programs, Primary Adult Care Program (PAC), Women, Infants, and Children (WIC), and any program deemed eligible by the Maryland Department of Health and the HSCRC (COMAR §10.37.10.26).¹

In addition, Johns Hopkins Bayview Medical Center states in its policy for charity care (Exhibit 7 of the CON application) that the availability of financial assistance will be made known to the public and patients through multiple avenues. Importantly, the policy states that it will be discussed with patients orally. It also stipulates that patients with unpaid medical debt are to be sent information regarding financial assistance along with their medical bills:

"JHHS hospital will publish the availability of Financial Assistance on a yearly basis in their local newspapers, and will post notices of availability at patient registration sites, Admissions/Business Office the Billing Office [sic], and at the emergency department within each

¹ COMAR 10.37.10.26 <http://www.dsd.state.md.us/comar/comarhtml/10/10.37.10.26.htm>

facility. Notice of availability will be posted on each hospital website, will be mentioned during oral communications, and will also be sent to patients on patient bills. A Patient Billing and Financial Assistance Information Sheet will be provided to inpatients before discharge and will be available to all patients upon request.”²

Upon examining the aggressive fashion in which JHBMC has attempted to collect medical debts from its former patients, it appears that JHBMC is neglecting to follow its own charity care policies by failing to inform indebted former patients about the availability of financial assistance and discouraging them from applying. Many of the patients who JHBMC is pursuing for medical debt come from impoverished neighborhoods with large African-American populations. Given Maryland’s standards for charity care, it is almost a certainty that many of the individuals targeted with lawsuits by JHBMC would qualify for charity care. A number of examples are provided in the following section which demonstrate that JHBMC and Johns Hopkins Health System are suing patients who likely meet the criteria for financial assistance.

Furthermore, JHBMC fails to notify its patients of the availability of charity care in a way that meets the minimum standard required by the State Health Plan. Specifically, the State Health Plan requires “Individual notice regarding the hospital’s charity care policy shall be provided at the time of preadmission or admission to each person who seeks services in the hospital.”³ JHBMC’s policy, referenced above, stipulates that “[a] Patient Billing and Financial Assistance Information Sheet will be provided to inpatients before discharge and will be available to all patients upon request.”⁴ As noted by Commission staff in response to JHBMC’s rehab Certificate of Need application, providing the

² Johns Hopkins Medicine: Financial Assistance Policies (accessed 1/30/2019)
https://www.hopkinsmedicine.org/patient_care/billing-insurance/assistance-services/assistance_policies.html

³ COMAR §10.24.10

⁴ Johns Hopkins Medicine: Financial Assistance Policies (accessed 1/30/2019)
https://www.hopkinsmedicine.org/patient_care/billing-insurance/assistance-services/assistance_policies.html

information on charity care before discharge does not meet the standard of providing it at preadmission or admission.⁵

Before the proposed project is allowed to move forward by approval of the CON, JHBMC should bring its charity policy into compliance with the State Health Plan. It should cease filing lawsuits against impoverished patients who cannot pay their medical bills, and are very likely to qualify for charity care. Rather than suing its indigent and minority patients, the hospital should ensure that those who may qualify for financial assistance be given the opportunity and encouragement to apply for it.

JHBMC Medical Debt Lawsuits 2009-2018:

Since 2009 the hospital has chosen to file thousands of lawsuits against its indebted and likely impoverished patients, often seizing their assets or wages. These actions destabilize the lives of former patients who are too poor to pay the cost of their health care. JHBMC’s actions are causing stress and financial hardships, and have led to dozens of bankruptcies among those who are the intended beneficiaries of Maryland’s charity care requirements.

According to a study by the Urban Institute, residents of Baltimore struggle with medical debt at a rate much higher than the state and national averages. 29% of all Baltimore residents have medical debt in collections. Nonwhite residents of the city have medical debt in collections at nearly double the rate for the entire state.⁶ Baltimore residents and minority communities should be benefiting from the charity care that JHBMC is required by law to provide, but those very populations are in fact experiencing disproportionately high rates of medical debt.

Share with medical debt in collections			
	All	White	Nonwhite
Baltimore City	29%	19%	32%
Maryland	17%	15%	21%
National	18%	16%	21%

⁵ MHCC Request for Completeness Information (10/4/18), Johns Hopkins Bayview Medical Center Certificate of Need Application. https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/hcfs_con_bayview_rehab.aspx

⁶ Debt in America: An Interactive Map. <https://apps.urban.org/features/debt-interactive-map/>

In examining JHBMC's debt collections practices, we analyzed all of the lawsuits we could identify that the hospital filed in Maryland Circuit or District Courts against former patients concerning unpaid medical debt from 2009 through 2018.⁷ This review revealed facts that cause us to doubt JHBMC's claim to be in compliance with Maryland's charity care requirements, and suggest that the hospital may be failing to communicate to indebted patients orally and through its patient bills about the availability of financial assistance, as it is required to do.

- The sheer number of lawsuits filed by JHBMC to recover debt from its former patients from 2009 through 2018 is alarming: 2,373 total cases, including 604 wage and asset garnishments. In 69 cases the patients ultimately filed for bankruptcy.
- JHBMC has filed lawsuits against patients who owed as little as \$250. The median amount claimed in its lawsuits was \$1,184. It is likely that those who are struggling to pay the relatively small amounts of medical debt JHBMC is pursuing would be strong candidates for required financial assistance.
- JHBMC's medical debt lawsuits disproportionately target former patients who live in areas with high poverty rates and large populations of African Americans, strongly indicating that many of the targets of JHBMC's lawsuits come from impoverished and minority households.
- JHBMC has become increasingly aggressive in using the Maryland courts to collect medical debt. The annual number of debt collections lawsuits filed by JHBMC has increased from 6 in 2009 to nearly 500 in 2016 declining slightly the last two years. Similarly, the annual amount of money claimed by JHBMC in debt collection lawsuits increased from \$3,184 in 2009 to nearly \$900,000 in 2015 declining slightly the last two years. What justification is there for a change of this

⁷ All data reported on JHBMC medical debt lawsuits is from the Maryland Judiciary Case Search database: <http://casesearch.courts.state.md.us/casesearch/inquiry-index.jsp>

magnitude? It certainly is not warranted by any change in the hospital's usage rates or financial situation.

All the more troubling is the fact that this is not new behavior for JHBMC. In a 2008 Baltimore Sun exposé about the aggressive pursuit of medical debt by Maryland hospitals, the authors highlighted a particular case in which JHBMC filed a lawsuit over a \$10,000 medical debt against a disabled Medicare beneficiary who was receiving heating fuel support from the state. Over the five year period examined in the article, JHBMC and Johns Hopkins Hospital together filed over 14,000 lawsuits against patients concerning unpaid bills.⁸

It is also important to note that this pattern of behavior is systemic within the Johns Hopkins Health System. The four Johns Hopkins hospitals in Maryland (Johns Hopkins Bayview, Howard County General Hospital, Suburban Hospital, and Johns Hopkins Hospital) filed over 18,000 lawsuits between 2009 and 2018, against former patients to recover medical debt. It is not the interest or intent of the State Health Plan or Maryland's charity care statutes that so many thousands of the state's poorest residents be sued for medical debts, and the CON should not approve the proposed project until Johns Hopkins ceases its predatory behavior and fully implements its charity care policy.

Summary of Findings:

- Total cases filed by JHBMC 2009-2018: 2,373⁹
- Total amount claimed by JHBMC: \$3,914,775
- Median claim amount: \$1,184
- Minimum claim amount: \$250
- Bankruptcies resulting from JHBMC claims: 69

⁸ "In Their Debt" By Fred Schulte and James Drew. The Baltimore Sun, 12/21/2008.

<https://www.baltimoresun.com/news/nation-world/bal-te.hospitaldebt21dec21-story.html>

⁹ All data reported on JHBMC medical debt lawsuits is from the Maryland Judiciary Case Search database:

<http://casesearch.courts.state.md.us/casesearch/inquiry-index.jsp>

JHBMC Medical Debt Lawsuits - Amounts

Number of Lawsuits	Total Medical Debt Sought	Median per Lawsuit	Minimum Amount Sought	Maximum Amount Sought
2,373	\$3,914,775	\$1,184	\$250	\$29,950

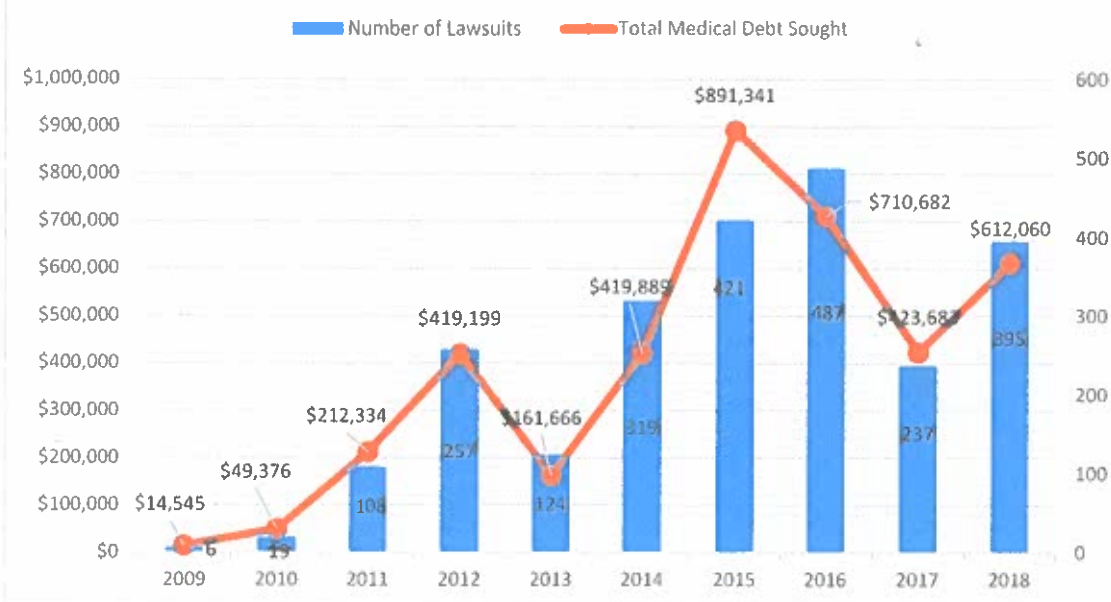
JHBMC Medical Debt Lawsuits by Year – Increasingly Aggressive

- Annual number of debt collections lawsuits filed by JHBMC has increased from 6 in 2009 to nearly 500 in 2016. The hospital filed 395 such lawsuits in 2018.
- Annual amount of money claimed by JHBMC in debt collection lawsuits increased from a total of \$14,545 in 2009 to nearly \$900,000 in 2015. For 2018, the hospital claimed over \$612,000 in such lawsuits.

JHBMC Medical Debt Lawsuits By Year

	Number of Lawsuits	Total Medical Debt Sought	Median Amount per Lawsuit
2009	6	\$14,545	\$3,184
2010	19	\$49,376	\$1,550
2011	108	\$212,334	\$1,187
2012	257	\$419,199	\$1,116
2013	124	\$161,666	\$965
2014	319	\$419,889	\$1,102
2015	421	\$891,341	\$1,346
2016	487	\$710,682	\$1,092
2017	237	\$423,683	\$1,430
2018	395	\$612,060	\$1,301
Total	2,373	\$3,914,775	\$1,184

JHBMC Medical Debt Lawsuits 2009-2018



Wage and Property Garnishments 2009-2018

JHBMC Medical Debt Lawsuits: Wage and Property Garnishments				
Total Garnishment Lawsuits	Total Medical Debt Sought through Garnishments	Median per Lawsuit	Minimum Amount Sought	Maximum Amount Sought
604	\$1,259,205	\$1,258	\$283	\$26,965

Wage and Property Garnishments			
Garnishee Type	Number of Lawsuits	Total Medical Debt Sought through Garnishments	Median per Lawsuit
PROPERTY GARNISHEE	88	\$250,663	\$1,421
WAGE GARNISHEE	516	\$1,008,542	\$1,195
Total	604	\$1,259,205	\$1,387

Medical Debt Lawsuits Concentrated in Neighborhoods with Large Minority Populations and High Rates of Poverty

- The zip code area with the most residents sued by JHBMC (21222) has a poverty rate that exceeds the state average by nearly 50%. In addition, the area's average median household income is 56% lower than the state average.¹⁰
- Of the ten zip codes with the highest number of former patients sued by JHBMC, seven have poverty rates higher than the state average, three have child poverty rates more than double the state average, and all but one have median household incomes below the state average.
- Of the ten zip codes with the highest number of former patients sued by JHBMC, three are majority African American, and in all but two of the areas the non-white population accounts for over 30% of the total.
- Nearly a quarter of JHBMC's medical debt cases target those living in areas where a majority of the population is nonwhite

Zip Codes with Most JHBMC Medical Debt Lawsuits									
Zip	Zip Code in Baltimore ¹¹	Residents Sued by JHBMC	Percent Living in Poverty	Percent of Children Living in Poverty	Percent African American	Percent Asian	Percent Hispanic or Latino	Percent White	Median household income
21222	Y	537	14.4	19	11.7	3.5	5.3	75.1	\$50,644
21224	Y	320	17.7	32.4	16.4	3.0	19.1	58.8	\$65,501
21221	Y	161	13.2	19.8	28.0	1.2	4.6	64.1	\$53,215
21206	Y	110	14.0	19	71.4	2.1	3.0	21.8	\$50,975
21220	Y	94	9.8	11	22.1	3.1	4.3	68.5	\$64,139
21213	Y	75	28.2	36.5	89.6	0.4	1.3	6.8	\$34,917
21205	Y	62	37.1	49.4	68.8	1.0	14.8	16.9	\$28,675
21219		62	7.0	10.6	8.4	1.5	3.1	84.7	\$80,815
21236	Y	57	8.5	12.5	16.6	9.8	2.7	68.2	\$77,532
21234	Y	55	8.8	11.2	28.5	5.2	4.2	60.4	\$61,748
Maryland Overall			9.7	12.9	29.7	6.2	9.6	51.9	\$78,916

¹⁰ All zip code data is from U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates

¹¹ 2010 ZCTA to County Relationship File: https://www.census.gov/geo/maps-data/data/zcta_rel_download.html

- Over 13% of JHBMC's medical debt lawsuits were against former patients who lived in areas where the poverty rate is more than double the state average.
- 72% of all JHBMC medical debt lawsuits target those living in areas where the poverty rate is higher than the state average.
- More than 27% of medical debt cases target those living in areas where the child poverty rate is more than double the state average.
- Over 80% of JHBMC's medical debt cases target those living in areas where the average household income is below the state average.
- 40% of JHBMC's medical debt cases target those living in areas where the median household income for a family of four is below 200% of the federal poverty level¹² - Maryland law states that anyone with a household income of 200% or less of the federal poverty level is entitled to free hospital care.¹³
- 57% of JHBMC's medical debt cases target residents of areas where the poverty rate exceeds the state average by more than 40%.

Zip Codes with Poverty Rates Double the State Average

Zip	Zip Code in Baltimore ¹⁴	Residents Sued by JHBMC	Percent Living in Poverty	Percent of Children Living in Poverty	Percent African American	Percent Asian	Percent Hispanic or Latino	Percent White	Median household income
21223	Y	11	38.5	48.6	73.1	2.4	5.0	16.1	\$26,899
21205	Y	62	37.1	49.4	68.8	1.0	14.8	16.9	\$28,675
21217	Y	15	36.7	53.6	85.2	1.3	2.0	9.9	\$28,116
21201	Y	8	30.8	44.7	51.3	8.3	2.9	34.8	\$33,877
21202	Y	15	29.3	41.8	59.8	4.2	5.4	28.5	\$44,656
21213	Y	75	28.2	36.5	89.6	0.4	1.3	6.8	\$34,917
21216		17	26.2	45.4	95.2	0.2	0.8	2.0	\$37,314
21215	Y	25	25.6	35.6	80.7	0.3	1.7	15.9	\$36,500
21225	Y	14	24.9	37.2	40.6	2.6	12.4	40.5	\$41,904

¹² HHS POVERTY GUIDELINES FOR 2019: [HTTPS://ASPE.HHS.GOV/POVERTY-GUIDELINES](https://aspe.hhs.gov/poverty-guidelines)

¹³ COMAR 10.37.10.26 <http://www.dsd.state.md.us/comar/comarhtml/10/10.37.10.26.htm>

¹⁴ 2010 ZCTA to County Relationship File: https://www.census.gov/geo/maps-data/data/zcta_rel_download.html

21218	Y	43	24.5	36.7	61.2	5.0	3.9	26.7	\$43,352
21231	Y	31	19.8	31.3	30.4	4.4	10.6	51.3	\$69,979
Maryland Overall			9.7	12.9	29.7	6.2	9.6	51.9	\$78,916

Johns Hopkins Health System total medical debt lawsuits 2009-2018:

Johns Hopkins Health System’s hospitals in Maryland, which include JHBMC, Howard County General Hospital, Suburban Hospital, and Johns Hopkins Hospital, filed 18,268 lawsuits against former patients in the ten years since 2009.¹⁵ That averages out to more than 5 medical debt lawsuits being filed every single day from January 1, 2009 and December 31, 2018.

Debt Collection Lawsuits: 2009-2018

	Johns Hopkins Bayview Medical Center	Howard County General Hospital	Suburban Hospital	John Hopkins Hospital	Total
2018	395	411	223	428	1470
2017	237	319	119	338	1013
2016	487	489	192	535	1738
2015	421	162	1572	310	2487
2014	319	105	3510	344	4285
2013	124	288	1405	108	1926
2012	257	379	1233	244	2114
2011	108	131	751	73	1062
2010	19	10	773	38	841
2009	6	22	1284	20	1332
2009-2018 Total	2373	2316	11062	2438	18268

Examples of Johns Hopkins Suing the Poor:

¹⁵ Medical debt lawsuit data is from the Maryland Judiciary Case Search database: http://casesearch.courts.state.md.us/casesearch/inquiry_index.jsp

Information regarding the income of the defendants in JHBMC's collection lawsuits is unavailable through online search, but can be gleaned from the court documents from lawsuits seeking wage and property garnishments. After reviewing a sampling of such cases, we found a number of examples that shed light on the economic realities of working people pursued for medical debt by Johns Hopkins. Many of these were former patients would likely have qualified for charity care.

Bankruptcy Case Example 1: A former patient, an African-American male between the ages of 55 and 59, is sued in 2014 by JHBMC over \$1,984.23 in alleged medical debt from 2012, and a wage garnishment order is issued for that amount plus an additional \$81.92 for interest and court costs. The patient earned only \$10 an hour at the time. The parties agreed to a consent judgement allowing for a payment plan of \$30 month to pay off the debt, in which the patient would be making payments for nearly six years. Three years later, an additional garnishment order is issued for \$1,525.54, showing the former patient had paid off \$540. About six months later, the patient submitted a hand written form to the District Court filing for bankruptcy and asking for the court to dismiss his wage garnishment.¹⁶ When JHBMC initially sued this former patient in 2014, his hourly wage indicates he would have qualified for 100% of charity care coverage under Maryland law, assuming he worked 2,080 hours annually and had no other sources of income.¹⁷

(NY: RECEIVED WITHIN 15 DAYS FROM RECEIPT OF THIS WRIT OF GARNISHMENT ON WAGES)
The answer of the Garnishee to the Writ of Garnishment served in this case, repeats as follows:

The Defendant (specify name) _____ is not employed by this Garnishee and the Garnishee requests dismissal of the garnishment.

The Defendant (specify name) _____ is employed by this Garnishee, and the rate or basis of pay is \$10.00 per hr.

REC'D
EST
10/11/14

¹⁶ Case No. 010100144062014, Baltimore City District Court.

¹⁷ Poverty Thresholds, 2014. US Census Bureau. <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>



Baltimore, Maryland

John Hopkins Bayview Medical
1920 Greenspring Drive, Ste 130
Towson, MD 21286

I am asking court to dismiss wage garnishment inter on
126 on July 3, 2018 I file chapter 7 Bankruptcy please
see attached.

Bankruptcy Case Example 2: A former Johns Hopkins Bayview patient, an African-American female between the ages of 28-33, is sued by Johns Hopkins Hospital for \$10,745.41 in alleged medical debt.¹⁸ The patient ultimately files for Chapter 7 bankruptcy¹⁹, which stays the medical debt lawsuit. In the Chapter 7 petition, the patient lists creditors as Johns Hopkins Hospital and Johns Hopkins Bayview for medical debt. The patient also states that she uses food stamps and that she is facing eviction. The patient's stated income levels would have qualified her for charity care under Johns Hopkins' financial assistance policy, as she takes home \$1,868 a month to support herself and two children, meaning that her earnings are below 200% of federal poverty levels.²⁰ Ultimately, the bankruptcy was discharged, meaning that the patient's credit score is deeply affected and that as a result she could have a more difficult time securing employment, housing and a job in the future.

Low Wage Earner Garnishment Example: A former patient, an African-American female, is sued in 2014 by JHBMC over \$1,028.47 in alleged medical debt from 2013, and a wage garnishment order is issued for that amount plus an additional \$212.49 for interest and court costs. At that time, the patient earned \$13 an hour working for Amazon.Com. By 2016, JHBMC files an order of satisfaction, indicating the debt is paid.²¹ Within the year, however, JHBMC sues the same patient again for alleged medical

¹⁸ Case No. 010100006992016, Baltimore City District Court.

¹⁹ Case No. 17-12978. United States Bankruptcy Court for the District of Maryland.

²⁰ Poverty Thresholds, 2017. US Census Bureau. <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>

²¹ Case No. 010100301012013, Baltimore City District Court.

debt of \$3,539.27, plus interest and court costs, related to treatment she received at Bayview 2015. In both cases, there is no adjustments or payments shown in the itemized charges, indicating the patient is uninsured.²² When JHBMC initially sued this former patient in 2014, her hourly wage shows she would have qualified for 60% to 100% of charity care coverage under Maryland law, assuming she worked 2,080 hours annually had no other sources of income.²³

Bank Account Garnishment Example: A former patient, who is a 55 year old female, is sued by Johns Hopkins Hospital for an alleged \$280.13 in medical debt in 2017.²⁴ The patient had insurance, but her insurance did not cover the complete amount of money requested by JHH for medical services provided. In the case proceedings, JHH moves to garnish the former patient's property. The defendant states that she had \$92.18 in her bank account (left figure). JHH then requests to garnish all \$92.18 (right figure).

The image shows two legal forms from the District Court of Maryland for Baltimore City. The left form is a "GARNISHEE'S CONFESSION OF ASSETS OF PROPERTY OTHER THAN WAGES" (Rule 3-645 and 3-645.1). It is filed in Case No. 01010001362017. The defendant, [REDACTED], has listed a checking account with a balance of \$92.18. The right form is a "REQUEST FOR JUDGMENT - GARNISHMENT" (Md. Rule 3-645 (g)). It is filed in Case No. 01010001362017. The creditor, The Johns Hopkins Hospital, requests a judgment for \$92.18 plus enforcement costs. Both forms include handwritten signatures and dates.

²² Case No. 010100173852016, Baltimore City District Court.

²³ Poverty Thresholds, 2014. US Census Bureau. <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>

²⁴ Case No. 010100001362017, Baltimore City District Court.

Low Wage Earner Paying Child Support Garnishment Example: A patient, who is a male Baltimore resident, receives medical services at JHH in June 2014. The patient is billed \$2,100.86 and receives no adjustment on the amount. JHH files a lawsuit in November 2015, then later a wage garnishment request in 2016. Two years later, JHH files another garnishment request, which is answered stating that the patient earns \$13.95 an hour (earning \$558 if he works 40 hours per week) and pays \$303.74 per pay period for child support (Figure R). The case is still ongoing.²⁵

ANSWER

(TO BE FILED WITHIN 30 DAYS FROM RECEIPT OF THE WRIT OF GARNISHMENT ON WAGES.)

The answer of the Garnishee/Employer to the Writ of Garnishment served in this case, reports as follows:

- The Defendant (specify name) _____ is not employed by this Employer, and the Employer requests _____ garnishment.
- The Defendant (specify name) _____ is employed by this Employer, and the rate or basis of pay is \$ 13.95 per hour.
- The Garnishee/Employer desires to contest the attachment and asserts the following defenses on the Garnishee's own behalf as well as any defenses that the Debtor could assert: _____
- The following prior liens exist: _____

Name and Address of Court	Case Number	Plaintiff's Name and Address	Date Attached	Amount of Attachment
Maryland Child Support	[REDACTED]	[REDACTED]	[REDACTED] 18	132.50 per pay
Maryland Child Support	[REDACTED]	[REDACTED]	[REDACTED] 18	171.25 per pay

UNWARRANTED RATE INCREASE REQUEST

The Commission should not approve JHBMC's CON application based on the hospitals proposed rate increase to finance the redevelopment of the hospital's campus. The adverse impact of JHBMC extracting more money from its patients and third parties, including Medicare and Medicaid, to fund its proposed projects is both unnecessary and unjustified. Other financing options are available to JHBMC that would better correspond to the State Health Plan's stated goal of avoiding unwarranted increases in hospital charges due to capital projects.

Funding Plan from CON application:

²⁵ Case No. 010100271532015, Baltimore City District Court

The funding plan proposed by JHBMC for the projects included in this CON application relies on cash reserves, State grant dollars, fundraising and debt. JHBMC expects to contribute a total of \$105.5 million in cash toward the projects. It is also anticipating \$27 million in grants from the State of Maryland plus another \$48 million in philanthropic support for the project. The hospital plans to assume about \$260 million in debt to fund the project.

JHBMC states that it will begin taking on \$30,309,000 of new interest and depreciation expenses associated with the CON project in 2023. To cover these new expenses, the hospital plans to submit a rate application for the CON project to the HSCRC, requesting a rate increase of 9.92%. According to JHBMC the request will represent a \$33.3 million rate increase.

If this rate increase is approved, it would mean not only that the majority of the cost of the project would be financed by its patients and payers through additional costs, but it would also guarantee increasingly high rates of profit for the hospital according to its own projections. These increased costs, which are wholly unnecessary to the viability of the project, would represent an unwarranted adverse impact upon the public and should not be allowed.

Projected Income:

In its income projections submitted in the CON application, JHBMC anticipates that by FY 2023 its net income will be \$32 million. This amount is \$1.7 million over the \$30,309,000 of new interest and depreciation expense associated with the CON projects that will begin accruing that year. Since the \$30.3 million in project related expenses are accounted for within these projections, that means that without any rate adjustment, JHBMC would lose \$1.3 million in 2023, but would make a profit of about \$1.8 million the following year. By FY 2025, JHBMC profits would jump to over \$4.6 million, or 5.7 times greater than what it earned in FY 2018.

Furthermore, if the rate increase is allowed, JHBMC's profits would surge an astounding 510% from FY 2016 to FY 2025, and the ratio of income to net operating revenue would increase by 377%.

JHBMC's projected profit rates, both with and without the rate increase, illustrate the fact that an increase in hospital charges to finance its project is entirely unwarranted.

Table H: REVENUES & EXPENSES, INFLATED - ENTIRE FACILITY²⁶

	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
NET OPERATING REVENUE	\$605,677,000	\$610,284,000	\$628,477,000	\$643,829,000	\$658,806,000	\$674,333,000	\$690,467,000	\$736,125,000	\$755,171,000	\$774,753,000
Income From Operation	\$20,229,000	\$10,596,000	\$10,900,000	\$22,543,000	\$22,058,000	\$23,602,000	\$24,166,000	\$25,764,000	\$26,431,000	\$27,116,000
Project Depreciation and Amortization	-	-	-	-	-	-	-	17,309,000	17,621,000	17,621,000
Interest on Project Debt	-	-	-	-	-	-	-	13,000,000	12,728,000	12,442,000
Non-Operating Income	(\$14,011,000)	(\$7,320,000)	(\$10,089,000)	(\$16,296,000)	(\$5,560,000)	(\$1,310,000)	\$3,030,000	\$6,234,000	\$8,665,000	\$10,817,000
NET INCOME (LOSS)	\$6,218,000	\$3,276,000	\$811,000	\$6,238,000	\$17,498,000	\$22,291,000	\$27,197,000	\$31,998,000	\$35,096,000	\$37,933,000
Net income without revenue from rate increase								(\$1,302,000)	\$1,796,000	\$4,633,000
Profit/Operating Revenue ratio	1.03%	0.54%	0.13%	0.97%	2.66%	3.31%	3.94%	4.35%	4.65%	4.90%

Johns Hopkins Health System: Assets and Income 2012-2017:²⁷

Johns Hopkins Health System is the owner and parent company of JHBMC. It is an enormously wealthy and profitable nonprofit organization. The resources it has at its disposal are important factors to look at when considering the appropriateness of JHBMC's proposed rate increase.

- Increase in Net Assets 2012-2018: \$1,303,714,000, or 45.4%
- Total Income from operations 2012-2018: \$ 1,342,642,000
- Total net income 2012-2018: \$1,299,941,000
- Cash and cash equivalents as of 6/30/2018: \$ 579,793,000

Johns Hopkins Health System - Consolidated Financial Statements							
	2018	2017	2016	2015	2014	2013	2012

²⁶ JHBMC included this data in its response to the MHCC's third completeness request, dated 11/30/2018. The data represented an amended version of the financial projections it submitted with its original CON application as Exhibit H, which included an incorrect rate increase. The revised projections, however, contain a number of changes not connected to the rate increase. For example, the updated data has operating income listed as \$9 million higher than what was originally presented, and non-operating income at \$9 million lower. It is not clear to us why any financial or expense data would change for FY 2016 between JHBMC's original submission and its 11/30/2018 update. Similar differences are also present in FY 2017 and FY 2018.

²⁷ The Johns Hopkins Health System Corporation and Affiliates Consolidated Financial Statements and Supplementary Information.

Net Assets	4,175,666,000	\$3,867,056,000	\$3,454,071,000	\$3,755,264,000	\$3,727,526,000	\$3,429,607,000	\$2,871,952,000
Income from operations	189,882,000	\$153,157,000	\$209,615,000	\$218,885,000	\$186,836,000	\$175,799,000	\$208,468,000
Net Income	257,272,000	\$304,760,000	(\$11,561,000)	\$94,115,000	\$338,306,000	\$339,028,000	(\$21,979,000)

Fundraising Capacity:

Although JHBMC plans to raise \$48 million through charitable donations to help fund the projects under review, this is in fact a small amount of what Johns Hopkins Health System has raised in just the past few years. Between 2010 and 2018 Johns Hopkins University and Johns Hopkins Health System embarked on a highly successful fundraising campaign, raising \$6.015 billion. According to a 2016 Fitch credit ratings report, \$2.65 billion of the capital campaign was targeted to Johns Hopkins Medicine (Johns Hopkins Health System and the Johns Hopkins University School of Medicine). Fundraising has been enormously successful for the health system, with \$2.1 billion raised towards the targeted \$2.65 billion, as of October 24, 2016.²⁸

Of the \$2.65 billion slated to be raised for Johns Hopkins Medicine by 2018, the \$48 million pledged for the JHBMC's planned projects only accounts for 1.8%. Of the total fundraising goal for the Johns Hopkins University and Johns Hopkins Medicine, \$6.015 billion, \$48 million only represents 0.8% of the total.

Given these staggering amount of funds available, it is clear the JHBMC could increase the amount of philanthropic support it plans to use in financing its proposed projects from the existing resources of its corporate parent.

JHBMC financial performance 2012-2018²⁹

²⁸ <https://www.businesswire.com/news/home/20161024006284/en/Fitch-Rates-Johns-Hopkins-Health-Systems-MD>

²⁹ Source: Hospital Monthly Unaudited Income Statements Reports; https://hscrc.state.md.us/Pages/hsp_Data2.aspx

	2018	2017	2016	2015	2014	2013	2012
Income from Operations	3,558,000	5,768,000	6,410,000	11,447,000	8,649,000	(8,608,000)	8,855,000
Net Income	811,000	8,682,000	9,115,000	13,875,000	11,105,000	(6,796,000)	10,623,000

- Total income from operations, 2012-2018: \$36,079,000
- Total net income, 2012-2018: \$47,415,000

Past Practice and Future Intentions Concerning Rate Increases:

According to the CON staff, over the last five years, Johns Hopkins Hospital has requested substantial rate increases beyond what other hospitals in the State have received. When the CON asked JHBMC for assurances that it would not need to request additional revenue above what has been projected in the CON as Johns Hopkins Hospital has done since opening its new facility, JHBMC refused to provide any such assurances or to offer any limits on its future requests for rate increases.³⁰

Projected Performance Improvements:

As noted by the Commission staff,

"JHBMC stated that it will implement performance improvements of \$36,075,000 by FY 2023, the same year as the opening of the CON project, and the same year when the \$30,309,000 of new interest and depreciation expense associated with the CON projected begins to be charged to Bayview's expenses. Since the assumed performance improvements of \$36,075,000 are greater than the new depreciation and interest expense of \$30,309,000 why couldn't Bayview offset the performance improvements against the new depreciation and interest expense leaving no additional costs to patients and third parties including Medicare and Medicaid?"

JHBMC's response to the above question from the Commission indicates that the performance improvements, through which the hospital expects to save it \$36.1 million, are not accounted for in its financial projections, and would therefore represent savings *in addition* to its projected income. If that

³⁰http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/documents/filed_2018/Bayview/bayview_2414_second_c_omp_response_20180928.pdf

is the case, it represents another clear indication that a rate increase associated with the project is not necessary or needed to cover project related expenses.³¹

QUALITY PERFORMANCE FAILURES

In addition to aggressively pursuing medical debt collections cases against impoverished individuals and requesting unwarranted rate increases, JHBMC has fallen below national and state averages on a number of key indicators of quality of care.³² These low quality measures are particularly concerning in light of the proposed construction and renovation project at Bayview. Projects of this scale create unforeseen challenges, transitions, and difficulties of all kinds for the clinical staff. Making improvements in quality measures during the chaos of the construction of new buildings and the renovation of old ones will be more difficult than would otherwise be the case. JHBMC should resolve its quality issues prior to receiving CON approval of its project.

Emergency Department:

The quality issues found within the emergency department (ED) raise a number of red flags regarding the proposed project. The data shows that JHBMC is below both the state and national averages for providing quality emergency department care.

10% of JHBMC's ED patients leave prior to ever being seen. This is dramatically higher than the state and national average, and indicates that the ED is not adequately living up to its core function of providing timely and effective emergency care. This may be in part due to the lengthy wait times ED patients are subjected to at JHBMC.

The fact that patients at Bayview's ED are waiting on average 8 hours before being admitted to the hospital, again significantly more than the state and national averages, implies the hospital itself is experiencing overcrowding. If that is the case, than reducing the bed count, as JHBMC proposes to do by

³¹http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/documents/filed_2018/Bayview/JHBMC%20NIB%20CON%20CQ1%20Responses.pdf

³² Source for quality measure: Hospital Compare, Medicare.Gov, Hospital Profile: JOHNS HOPKINS BAYVIEW MEDICAL CENTER. Accessed 1/23/2019. <https://www.medicare.gov/HospitalCompare/search.html>

15 beds, seems likely to exacerbate an already serious problem. The Commission should ensure that JHBMC reduce its ED wait times before approving the project.

Indeed, by every measure of ED wait times JHBMC exceeds the state and national average. The average amount of time a patient at Bayview’s ED spent in the ER was 4.6 hours, a full 1.5 hours longer than the state average, and nearly 2 hours longer than the national average.³³

- **Percentage of patients who left the emergency department before being seen**

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	MARYLAND AVERAGE	NATIONAL AVERAGE
10%	3%	2%

- **Average (median) time patients spent in the emergency department, before they were admitted to the hospital as an inpatient**

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	MARYLAND AVERAGE	NATIONAL AVERAGE
477 minutes (8 hours)	371 minutes (6.2 hours)	300 minutes (5 hours)

- **Average (median) time patients spent in the emergency department, after the doctor decided to admit them as an inpatient before leaving the emergency department for their inpatient room**

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	MARYLAND AVERAGE	NATIONAL AVERAGE

³³ “Hospital Compare data are reported using the median only. However, the median is often referred to as the ‘average’ on the Hospital Compare website to allow for ease of understanding.” Noted on the JHBMC profile from Hospital Compare, under Emergency Department Volume: <https://www.medicare.gov/hospitalcompare/profile.html#profTab=2&ID=210029&state=MD&lat=0&lng=0&name=JOHNS%20HOPKINS%20BAYVIEW%20MEDICAL%20CENTER&Distn=0.0>

193 minutes (3.3 hours)	161 minutes (2.7 hours)	118 minutes (2 hours)
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- **Average (median) time patients spent in the emergency department before leaving from the visit**

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	MARYLAND AVERAGE	NATIONAL AVERAGE
273 minutes (4.6 hours)	184 minutes (3.1 hours)	160 minutes (2.7 hours)

- **Average (median) time patients spent in the emergency department before they were seen by a healthcare professional**

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	MARYLAND AVERAGE	NATIONAL AVERAGE
34 minutes	31 minutes	22 minutes

Sepsis and Septic Shock:

JHBMC is 53% worse than the Maryland average in providing appropriate care for sepsis and septic shock, and 39% lower than the national average.³⁴ The low ratings of Bayview on this indicator is an enormous concern to the sickest and weakest patients receiving care at the hospital and should be improved before the CON application is approved.

- **Percentage of patients who received appropriate care for severe sepsis and septic shock:**

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	MARYLAND AVERAGE	NATIONAL AVERAGE
36%	55%	50%

³⁴ Source for quality measure: Hospital Compare, Medicare.Gov, Hospital Profile: JOHNS HOPKINS BAYVIEW MEDICAL CENTER. Accessed 1/23/2019. <https://www.medicare.gov/HospitalCompare/search.html>

Blood Clot Treatment:

JHBMC's performance in treating its patients to prevent blood clots is also substandard compared to the state and national averages.³⁵ Again, this quality measure should be improved before the Commission approves the CON for the project

- **Patients who developed a blood clot while in the hospital who did not get treatment that could have prevented it**

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	MARYLAND AVERAGE	NATIONAL AVERAGE
8%	1%	2%

Readmissions:

- Rate of readmission after discharge from hospital (hospital-wide)

JOHNS HOPKINS BAYVIEW MEDICAL CENTER	NATIONAL RATE
Worse than the National Rate	15.3%

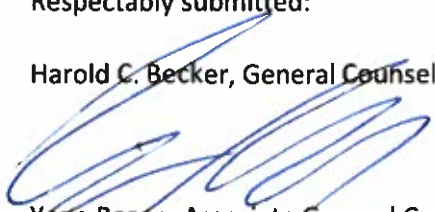
Conclusion

Based upon the issues discussed above regarding charity care, unwarranted rate increases and quality of care deficiencies, the AFL-CIO respectfully requests that the Commission delay approval of the requested CON until JHBMC has fully addressed and remedied these concerns. Failure to require JHBMC to do so will cause adverse impacts upon this organization and its employees and the working people our affiliated unions represent in the service area.

³⁵ Source for quality measure: Hospital Compare, Medicare.Gov, Hospital Profile: JOHNS HOPKINS BAYVIEW MEDICAL CENTER. Accessed 1/23/2019. <https://www.medicare.gov/HospitalCompare/search.html>

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