



HOUSE BILL 1039: Medical Debt De-Weaponization Act.

2021-2022 General Assembly

Committee:	House Banking. If favorable, re-refer to Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 7, 2022
Introduced by:	Reps. Goodwin, Hanig, Hunter, Richardson	Prepared by:	Greg Roney Staff Attorney
Analysis of:	First Edition		

OVERVIEW: *House Bill 1039 would require hospitals, hospital-affiliated clinics, ambulatory surgical centers, health care providers with annual revenues exceeding \$20 million, and licensed health care professionals who work in any of these facilities to disclose prices and financial assistance, provide minimum levels of free care, and prohibit certain collection practices as follows:*

- *Adopt a written financial assistance policy, called a Medical Debt Mitigation Policy (MDMP), and provide free and discounted care based on the patient's household income.*
- *Before seeking payment for medically necessary care, a provider must determine whether the patient has health insurance, screen and help apply for public insurance, private insurance, or other public programs.*
- *Disclose the gross charges for all health care services and the amounts that Medicare would reimburse for the same health care service.*
- *Create a private right of action for violation, including treble damages and a right of action by the Attorney General.*

House Bill 1039 would appropriate \$100,000 in recurring funds to the Department of Health and Human Services to administer the collection and publication of MDMP and annual reports.

BILL ANALYSIS: House Bill 1039 would enact the Medical Debt Protection Act as a new article in Chapter 131E. The proposed Act regulates large health care facilities defined as hospitals, hospital-affiliated clinics, ambulatory surgical centers, health care providers with annual revenues exceeding \$20 million, and licensed health care professionals who work in any of these facilities. House Bill 1039 regulates in 4 areas: disclosure, free care, collection, and enforcement:

Disclosure:

Large health care facilities must adopt a written financial assistance policy, called a Medical Debt Mitigation Policy (MDMP). The MDMP must be approved by the owners or governing body and reviewed annually. House Bill 1039 provides rules for the MDMP to be publicized and translated.

Facilities must disclose the gross charges for all health care services and the amounts that Medicare would reimburse for the same health care service.

Free Care:

Large health care facilities must provide free and discounted care for amounts not covered by insurance based on the patient's household income. These minimum levels of free care are:

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- Household income 0%-200% of the federal poverty level receive free care.
- Household income 200%-400% of the federal poverty level charged based on the Medicare reimbursement rate reduced to 50% of the first \$1,000, 10% of amounts between \$1,000-\$5,000, 5% of amount between \$5,000-\$10,000, and none of amounts above \$10,000.
- Household income 400%-600% of the federal poverty level would be treated the same as 200%-400% federal poverty level if the household has total medical expenses from all medical bills exceeding 10% of household income.
- Household income below 400% of the federal poverty level receive free care after paying \$2,300 in cumulative medical bills per year.
- A patient who qualifies for financial assistance must be offered a payment plan with payments capped at 5% of monthly income (see details in Collection section).
- No liability of a spouse or other person for the medical debt of any other person age 18 or older (see details in Collection section).

Collection:

Before seeking payment for medically necessary care, large health care facilities must determine whether the patient has health insurance, screen and help apply for public insurance, private insurance, or other public programs. A facility must accept an application for financial assistance if submitted within 1 year of the first bill or if submitted at any time if collection activity is taken by the facility including a negative credit report.

If a patient applies for financial assistance, the facility must determine the patient's eligibility under the MDMP within 14 days and suspend any billing or collections actions while eligibility is being determined. The facility must notify the patient in writing within 30 days whether the application is approved or denied.

Facilities are prohibited from collecting through arrest or imprisonment, civil contempt, foreclosing on real property, garnishing wages, or garnishing state income tax refunds (except setoff under Chapter 105A).

If a patient qualifies for financial assistance, the facility must not charge interest or late fees and must offer a payment plan with monthly payments capped at 5% of gross monthly income, no prepayment or early payment penalties, and no initial payment within the first 90 days.

Interest is banded between 2%-5% and is based on the weekly average 1-year constant maturity Treasury yield.

A medical creditor or medical debt collector that knows or should have known about an appeal of a health insurance decision that is pending now or was pending within the previous 60 days must not take any collection action.

The following collection activities require a 180-day waiting period after the first bill, a 30-day notice, and a 30-day waiting period after the notice:

- Selling an individual's debt to another party unless the agreement was made prior to the sale and prohibits all collection activities in this list (i.e., the facility could conduct these activities but a buyer could not).
- Placing a lien on property.
- Attaching a bank account or other personal property.

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- Commencing a civil action.
- Garnishing wages.
- Any other action that requires a legal or judicial process.
- Reporting the patient to a consumer reporting agency. If a report is made, the following apply:
 - 1-year waiting period from first bill.
 - One additional bill after the 1-year waiting period and before report.
 - Additional bill must state that the debt will be reported.

House Bill 1039 removes liability of a spouse or other person for the medical debt or nursing home debt of any other person age 18 or older unless a person assumes liability on a separate document, not solicited in an emergency room or during an emergency situation, and not be required as a condition of providing any services.

The restrictions on facilities also apply to medical debt collectors.

Enforcement:

House Bill 1039 creates a private right of action for violation, including treble damages and a right of action by the Attorney General. The Department of Health and Human Services collects and publishes the MDMP and annual report from each large health care facility.

Appropriation:

House Bill 1039 would appropriate \$100,000 in recurring funds to the Department of Health and Human Services to administer the collection and publication of MDMPs and annual reports.

EFFECTIVE DATE: House Bill 1039 would be effective October 1, 2022, and apply to medical debt collection activities occurring after that date.

BACKGROUND: House Bill 1039 is substantially the same as the Model Medical Debt Protection Act (September 2019) promulgated by the National Consumer Law Center.