SENATE BILL 321: Medical Debt De-Weaponization Act.

2023-2024 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	April 26, 2023
Introduced by:	Sens. Krawiec, Ford, Burgin	**Prepared by:**	Nicholas Giddings Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 321 would require large healthcare facilities to provide patients with a financial assistance policy, prevent them from taking extraordinary collection measures, provide price information on their websites, and report to DHHS on these measures. Consumers would have a private right of action against healthcare facilities and medical debt collectors who violate those provisions. The bill would also prohibit most non-hospital healthcare facilities from charging facility fees and prohibit hospitals from charging facility fees for identified procedures.

BILL ANALYSIS:

Part I of the bill would create the Medical Debt Protection Act (Article 11C) in Chapter 131E of the General Statutes.

Medical Debt Mitigation Policy in general: The Medical Debt Protection Act (Act) would require all large medical facilities (hospitals, outpatient clinics affiliated with hospitals, ambulatory surgical centers, and healthcare practices with annual revenue of at least $20 million) to develop a Medical Debt Mitigation Policy (MDMP). The MDMP must contain (1) a written financial assistance policy with a plain language summary of the policy, (2) eligibility criteria for financial assistance, (3) information on the application for financial assistance, and (4) the facility's billing and collection policy.

Financial assistance application: Prior to seeking payment for emergency or medically necessary care, large facilities would be required to determine whether patients have insurance, and, if not, screen them for public or private insurance and other programs to assist with healthcare costs. If the patient files an application for financial assistance, the facility must act on it within 30 days. Any application for assistance received within one year of the date of the first bill must be considered, unless collection activities have been initiated. In that case, the application must be considered regardless of elapsed time. Collection activity must stop while the application is being considered. If the patient is eligible for financial assistance, the first monthly payment cannot be due until at least 90 days after the date of service.

Publication of MDMP: Facilities would be required to publicize their MDMP. The MDMP and financial assistance application must be readily and conspicuously available online and in hard copies. The facility must notify members of the community it serves of the MDMP in a manner reasonably calculated to reach those most likely to need financial assistance. Paper copies of the MDMP must be offered at a patient's first visit to the facility and as part of a hospital's intake and discharge process. All debt collection attempts must inform the patient of any financial assistance policy.

Translation of MDMP: The MDMP must have a printed notice directing individuals to seek assistance in translating the MDMP. This notice must be printed in the 10 languages most frequently spoken by individuals with limited English proficiency. The MDMP and financial assistance application must be translated into each language spoken by the lesser of 1,000 individuals or 5% of the facility's community.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Oral translators must be provided at no cost for individuals who speak a language below the 1,000 person/5% threshold.

Billing and collection: Medical debt collectors would be prohibited from causing debtors' arrest, causing them to be held in civil contempt, foreclosing on their real property, and garnishing their wages or state tax refunds. Extraordinary collection measures (selling medical debt in many cases, reporting to a credit bureau, placing liens on real property, and garnishment) would be prohibited until 180 days after the first bill was sent and 30 days after sending notice of the MDMP (if the debt is owed to a large facility), identifying the method of extraordinary collection, and providing a deadline when the extraordinary collection activities will begin. Medical creditors that know or should know of an appeal of a bill cannot take action to collect the alleged debt. Large facilities cannot take any extraordinary measures that are not listed in their billing and collection policies. If the debtor is later found to be eligible for financial assistance, the debt collector must reverse any extraordinary action taken. No one can be held liable for the medical debt of any other individual 18 or older unless the person gives consent to do so in a separate document, and that consent is not solicited in an emergency situation. Medical debt collectors must provide itemized statements to debtors on request.

Price information: Large healthcare facilities must provide price information on their websites. This information must include the list of gross charges for healthcare services, the amount Medicare reimburses for those services, and descriptions of those services that can be understood by the average consumer.

Interest and payment plans: Interest on medical debt, including judgments on unpaid amounts, will be limited to the weekly average one-year constant maturity Treasury yield on the date the customer was first billed, but not more than 5% or less than 2%. Medical creditors that agree to payment plans must send a copy of those plans to consumers within five days. The plan must disclose the interest rate and the scheduled payoff date. The consumers do not have to make any payments until the copy of the plan has been provided. Payment plans cannot be placed in default until the consumer has missed at least three consecutive monthly payments, the creditor has made at least three reasonable attempts to contact the consumer, notice of impeding default has been provided to the consumer, and the creditor has attempted to renegotiate the payment plan. Default cannot be reported to a credit bureau until 60 days after the account has been declared to be in default.

Receipts: Medical debt collectors must provide itemized receipts to consumers within ten days of receiving payment.

Private remedy and waiver: Any consumer whose rights under the Act have been violated may bring an action for injunctive or other equitable relief against the debt collector who knowingly violated those rights. No MDMP or agreement with a large healthcare facility can contain a provision waiving the right to bring a private action. Any waiver of the rights in the Act provided by a consumer is void and unenforceable.

Enforcement and reporting: The Attorney General will enforce the provisions of the Act and must establish a process allowing consumers to file complaints about medical creditors and debt collectors who violate those provisions. These complaints will be public records under Chapter 132. Large healthcare facilities must submit copies of their MDMP to DHHS annually by July 1. These reports must be posted on the DHHS website. DHHS must prepare a consolidated report showing the number of patients who applied for financial aid, the number who received it, and the amount of assistance provided to patients. Large healthcare providers who initiate the process to retain a patient's state tax refund must report that information to the Revenue Laws Study Committee.

Exemptions: Federally qualified health centers are exempt from the MDMP, price disclosure, and reporting requirements of the Act.

Part II of the bill would prohibit healthcare providers from charging facility fees for any procedures that are not performed at a hospital's main campus or a facility that includes an emergency department. Facility fees would also be prohibited, regardless of where the procedure is performed, for services identified by DHHS that can be safely and reliably performed in non-hospital settings. Hospitals and health systems would have to report annually to DHHS on the facility fees they charged. The charging of a facility fee that should have been prohibited would be considered an unfair and deceptive trade practice under Chapter 75. DHHS would be able to audit facilities for compliance and assess a $1,000 administrative penalty for each violation.

EFFECTIVE DATE: The Medical Debt Protection Act would become effective October 1, 2023. The provisions of the Medical Debt Protection Act impacting existing contracts would become effective October 1, 2023, and apply to contracts and agreements entered into, amended, or renewed on or after that date. The facility fee provisions would become effective October 1, 2023. The remainder of the bill would become effective when it becomes law.

Jason Moran-Bates and Robert Ryan, staff attorneys with the Legislative Analysis Division, substantially contributed to this summary.